

California. Laws, statutes, etc.

# PUBLIC HEALTH LAWS

NOT CODIFIED IN HEALTH  
AND SAFETY CODE



NOTES TO COUNSEL

CALIFORNIA STATE DEPARTMENT  
OF PUBLIC HEALTH



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**FOREWORD**

The laws covered in this pamphlet include many of the acts of the Legislature that pertain to public health but which are not found in the Health and Safety Code. It is by no means all-inclusive. Since the public health field covers such a wide range of subject matter, it is impossible to print in this pamphlet many of the laws that are corollary to public health practice. Nevertheless, it is believed that health officers will find herein most of those laws that have a more direct bearing upon public health administration in local communities. Particular attention has been paid to the provision of laws that pertain to nuisances and their abatement. Some of the sections taken from the Education Code have no reference to action that might be taken by the health officers. They are of concern to public health, however, and health officers and public health nurses may profit through a careful study of these sections of the new Education Code. While an effort has been made to provide all laws that may be of direct use in local public health administration, it is recognized that many such laws may have been omitted. The department will be glad to provide all available information relative to the laws of California that pertain to public health but which may have been omitted from this publication. It is hoped that the material presented herewith may be of use to health officers and that it will be of particular assistance in the application of needed authority in emergencies.

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WASHINGTON, D. C.

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## I

**NUISANCES****Public Nuisances Defined**

370. Anything which is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a public nuisance. (*Penal Code*)

**Maintaining a Nuisance a Misdemeanor**

372. Every person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, or who wilfully omits to perform any legal duty relating to the removal of a public nuisance, is guilty of a misdemeanor. (*Penal Code*)

**Maintaining or Permitting Public Nuisance After Abatement Notice a Misdemeanor: Each Day's Existence a Separate Offense: Duty of District Attorney**

373a. Every person who maintains, permits, or allows a public nuisance to exist upon his or her property or premises, and every person occupying or leasing the property or premises of another who maintains, permits or allows a public nuisance to exist thereon, after reasonable notice in writing from a health officer or district attorney to remove, discontinue or abate the same has been served upon such person, is guilty of a misdemeanor, and shall be punished accordingly; and the existence of such nuisance for each and every day after the service of such notice shall be deemed a separate and distinct offense, and it is hereby made the duty of the district attorney to prosecute all persons guilty of violating this section by continuous prosecutions until the nuisance is abated and removed. (*Penal Code*)

**Deposit of Offensive Matter on Roads, Etc., or Private Property of Another: Rights of Owners of Property**

374b. It shall be unlawful to place, deposit or dump, or cause to be placed, deposited or dumped, any garbage, swill, cans, bottles, papers, ashes, refuse, carcass of any dead animal, offal, trash, or rubbish of any noisome, nauseous or offensive matter in or upon any public or private highway or road, including any portion of the right of way thereof, or in or upon any private property into or upon which the public is admitted by easement or license, or on any private property without the consent of the owner, or in or upon any public park or other public property other than property designated or set aside for such purpose by the governing

board or body having charge thereof. Any person, firm or corporation violating the provisions of this section shall be guilty of a misdemeanor.

No portion of this section shall be construed to restrict a private owner in the use of his own private property. (*Penal Code*)

**Putting Offensive Substance in Theater or Other Place of Public Assemblage: Making or Possessing Such Substance With Unlawful Intent: Punishment: Use of Substance Likely to Produce Serious Illness or Permanent Injury: Use of Tear or Mustard Gas, Acid or Explosives: Punishment**

375. (1) It shall be unlawful to throw, drop, pour, deposit, release, discharge or expose, or to attempt to throw, drop, pour, deposit, release, discharge or expose in, upon or about any theater, restaurant, place of business, place of amusement or any place of public assemblage, any liquid, gaseous or solid substance or matter of any kind which is injurious to person or property, or is nauseous, sickening, irritating or offensive to any of the senses.

(2) Making or possessing such substance with unlawful intent. It shall be unlawful to manufacture or prepare, or to possess any liquid, gaseous, or solid substance or matter of any kind which is injurious to person or property, or is nauseous, sickening, irritating or offensive, to any of the senses with intent to throw, drop, pour, deposit, release, discharge or expose the same in, upon or about any theater, restaurant, place of business, place of amusement, or any other place of public assemblage.

(3) Punishment. Any person violating any of the provisions hereof shall be punished by imprisonment in the county jail for not less than three months and not more than one year, or by a fine of not less than five hundred dollars and not more than two thousand dollars, or by both such fine and imprisonment.

(4) Use of substance likely to produce serious illness or permanent injury: Use of tear or mustard gas, acid or explosives: Punishment. Any person who, in violating any of the provisions of subdivision (1) of this section, wilfully employs or uses any liquid, gaseous or solid substance which may produce a serious illness or permanent injury through being vaporized or otherwise disbursed in the air or who, in violating any of the provisions of subdivision (1) of this section, wilfully employs or uses any tear gas, mustard gas or any of the combinations or compounds thereof, or wilfully employs or uses acid or explosives, shall be guilty of a felony and shall be punished by imprisonment in the State prison for not less than one year and not more than five years. (*Penal Code*)

**Unequal Damage**

371. An act which affects an entire community or neighborhood, or any considerable number of persons, as specified in the last section, is not less a nuisance because the extent of the annoyance or damage inflicted upon individuals is unequal. (*Penal Code*)

**Spitting Prohibited, Where**

372a. It shall be a misdemeanor for any person to discharge mucus from the nose or mouth or spit upon any sidewalk, of any public street or

highway or upon any part of any public building or railroad train, street-car, stage, ferryboat, steamer, boat or other vessel or vehicle used for the transportation of the public. (*Penal Code*)

### **Lien for Sewer Connections Made by City**

1191a. Any health officer or governing board of any city, town or sanitary district, having served written notice upon the owner or reputed owner of real estate upon which there is a dwelling house, and such owner or reputed owner, after thirty days, having refused, neglected or failed to connect such dwelling house, together with all toilets, sinks, and other plumbing therein, properly vented, and in a sanitary manner, with the adjoining street sewer, may construct the same at a reasonable cost, and the person doing said work at the request of such health officer or governing board, has a lien upon said real estate for his work done and materials furnished, and such work done and materials furnished shall be held to have been done and furnished at the instance of such owner or reputed owner or person claiming or having any interest therein. (*Civil Code*)

### **Lapse of Time Does Not Legalize**

3490. No lapse of time can legalize a public nuisance, amounting to an actual obstruction of public right. (*Civil Code*)

### **Remedies Against Public Nuisances**

3491. The remedies against a public nuisance are:

1. Indictment or information;
2. A civil action; or
3. Abatement. (*Civil Code*)

### **Remedy by Private Person**

3493. A private person may maintain an action for a public nuisance, if it is specially injurious to himself, but not otherwise. (*Civil Code*)

### **Abatement by Officer**

3494. A public nuisance may be abated by any public body or officer authorized thereto by law. (*Civil Code*)

### **Abatement by Private Person**

3495. Any person may abate a public nuisance which is specially injurious to him by removing, or if necessary, destroying the thing which constitutes the same, without committing a breach of the peace, or doing unnecessary injury. (*Civil Code*)

## II

### **EDUCATION CODE**

#### **Emergency Average Daily Attendance**

6787. The average daily attendance of any school district in which the average daily attendance has been materially decreased during any school year, because of \_\_\_\_\_ epidemic of unusual duration and prevalence, \_\_\_\_\_ shall be estimated by the Superintendent of Public Instruction in such manner as to credit to the school district for apportionment purposes approximately the total average daily attendance which would have been earned had the conflagration, other public calamity, epidemic, or emergency not occurred.

6789. In case of epidemic the State Board of Health upon request of the Superintendent of Public Instruction shall investigate the duration and prevalence of the epidemic in any school district and decide whether the duration and prevalence of the epidemic was sufficient to justify the application of the provisions of this article, and shall notify the Superintendent of Public Instruction of its decision. Thereupon the Superintendent of Public Instruction shall notify the superintendent of the county in which the school district is situated.

#### **Exemption from 170 Days of Teaching Because of Epidemic**

6739. An elementary school district which during any school year provides for the education of pupils residing within the district under the provisions of this code, for not less than 170 days shall be deemed to have maintained school for not less than 170 days of actual teaching during the school year.

6740. A district which is prevented from maintaining a school for the length of time designated in this article by \_\_\_\_\_ prevailing epidemic, \_\_\_\_\_ which fact shall be shown to the satisfaction of the Superintendent of Public Instruction by the affidavits of the members of the board of school trustees and the county superintendent of schools is nevertheless entitled to its apportionment of State and county school money.

6771. Where a school in a district maintaining more than one school is closed for a part of a term by order, as provided in Section 6740, the average daily attendance of the school shall be estimated separately, as provided in Section 6787, and added to the average daily attendance of the other schools of the district.

#### **Closing of Schools by Order of Board of Health**

8103. Except where a school has been closed by order of a city or a county board of health, or of the State Board of Health, on account of

contagious disease, or where the school has been closed on account of fire, flood, or other public disaster, the governing board of any school district shall maintain all of the elementary day schools established by it for an equal length of time during the year and all of the day high schools established by it for an equal length of time during the year.

### **Exclusion of Pupils**

16032. The governing body of any school district may exclude children of filthy or vicious habits, or children suffering from contagious or infectious diseases.

16033. The governing board of the school may exclude from attendance on regular school classes any child whose physical or mental disability is such as to cause his attendance to be inimical to the welfare of other pupils.

### **Permits to Work**

16675. No permit (to work) shall be issued until the issuing authority has received, examined, approved, and filed, the following papers duly executed :

\* \* \* \* \*

(d) A certificate signed by a physician appointed by the school board, or by other public medical officer, stating that the minor has been thoroughly examined by him, and, in his opinion, is physically fit to pursue the work specified. No fee shall be charged the minor for the physical certificate.

### **Physical Examination of Pupils**

16481. The governing board of any school district shall make such rules for the examination of the pupils in the public schools under its jurisdiction as will insure proper care of the pupils and proper secrecy in connection with any defect noted by the supervisor of health or his assistant and may tend to the correction of the physical defect. (Amended by Stats. 1943, Ch. 883.)

16483. A parent or guardian having control or charge of any child enrolled in the public schools may file annually with the principal of the school in which he is enrolled a statement in writing, signed by the parent or guardian, stating that he will not consent to the physical examination of his child. Thereupon the child shall be exempt from any physical examination, but whenever there is a good reason to believe that the child is suffering from a recognized contagious or infectious disease, he shall be sent home and shall not be permitted to return until the school authorities are satisfied that any contagious or infectious disease does not exist.

16484. When a defect has been noted by the supervisor of health or his assistant, a report shall be made to the parent or guardian of the child, asking the parent or guardian to take such action as will cure the defect. (Amended by Stats. 1943, Ch. 883.)

16486. No absence of a pupil from school for the purpose of having dental service rendered shall be deemed an absence in computing average daily attendance.

17254. Every attending or consulting physician who examines any child under 20 years of age found to be totally deaf or with impaired hearing shall report at once to the principal of the California School for the Deaf the name, age, residence, and the name of the parent or guardian of the minor.

17256. City, county, and city and county health officers, all school nurses, the principal or other person in charge of every public or private school, and all truant officers and welfare workers shall report at once to the principal of the California School for the Deaf the name, age, sex, residence, and the name and residence of the parent or guardian of any child under 20 years of age found to be deaf or with impaired hearing, examined by them.

### Health Supervision

16401. The control of smallpox is under the direction of the State Board of Health, and no rule or regulation on the subject of vaccination shall be adopted by school or local health authorities.

16425. Contracts between any city and the governing board of any school district located wholly or partially within such city for the performance by the health officers or other employees of the health department of any city of any or all of the functions and duties set forth in Chapter 3 of Division 8 of the Education Code, relating to health supervision of school buildings and pupils are hereby authorized.

In any such contracts the consideration shall be such as may be agreed upon by the governing board and the city and shall be paid to the city by the governing board at such times as shall be specified in the contract. This section shall not apply to any district which is under the control of a governing board which has under its control a district or districts having a total average daily attendance of 100,000 or more pupils. (Added by Stats. 1943, Ch. 695.)

16441. The governing board of any school district may appoint a supervisor of health, or supervisors of health, consisting of a physician, teacher, nurse, oculist, dentist, optometrist, otologist, audiometrist, or any one or more of such persons. In case of the appointment of more than one supervisor of health the supervisors may, in the discretion of the board, all be chosen from any one of the classes designated. The board may also appoint such number of nurses and dental hygienists as it may deem necessary to work under the direction of the supervisor of health and may provide for the compensation of such employees. No money set aside for the payment of teachers' salaries or for library purposes shall be used for this purpose. (Amended by Stats. 1943, Ch. 883.)

16442. The governing boards of two or more school districts in the same county may join in the employment of a supervisor of health, or

supervisors of health, and may use funds not set aside for the payment of teachers' salaries or for library purposes for the expenses of the work. The boards may employ a nurse or nurses under the direction of a supervisor of health to examine the schools under their jurisdiction. (Amended by Stats. 1943, Ch. 883.)

16443. No physician, oculist, dentist, dental hygienist, optometrist, otologist, audiometrist, nurse, or other person shall be employed or permitted to supervise the health and physical development of pupils unless he holds a health and development certificate. (Amended by Stats. 1943, Ch. 883.)

### Employment of Nurses and Dental Hygienists

16461. The county superintendent of schools of each county may employ one or more nurses or dental hygienists, or both, to supervise the health of pupils enrolled in the schools of elementary districts over which he has jurisdiction not employing a nurse as a supervisor of health or may contract with the board of supervisors of the county in which he holds office for the performance of health officers, health nurses, or other employees of county health departments of any or all of the functions relating to proper health supervision of the elementary school buildings and of pupils enrolled in the elementary schools of the elementary school districts. All rules governing health supervision in the elementary schools shall be made by the county superintendent of schools. No nurse or dental hygienist shall be employed, and no county employee shall perform duties under any contract, who does not possess a health and development credential. (Amended by Stats. 1943, Ch. 883.)

16462. A nurse or dental hygienist employed by the county superintendent of schools shall perform such duties in connection with the supervision of the health of pupils as are prescribed by the county superintendent of schools. The nurse shall not examine any pupil except with the written consent of the parent or guardian of the pupil.

16463. The salary and necessary traveling and other expenses of any nurse and dental hygienist employed pursuant to this article or the contract price agreed upon between the board of supervisors and the county superintendent of schools may be paid by the county superintendent of schools from either the county unapportioned elementary school fund or from the county elementary school supervision fund, or from both.

### Credentials and Certificates

12151. The State Board of Education shall prescribe by general regulations the qualifications upon which county and city and county boards of education may grant certificates: \* \* \*

(e) To supervise the health and development of pupils.

13051. In school districts which have adopted the merit system for employees in positions not requiring certification qualifications in addition to positions specifically required by this code to be filled by persons

holding certification qualifications, all employees of the districts whose principal duties are specifically set forth in Section 13052 shall hold general or special supervisory or administrative certificates or credentials or such special educational certificates or credentials as may be specified and issued by the State Board of Education.

13052. The State Board of Education may establish standards for, and issue, certificates and credentials for the following positions: \* \* \*  
(i) Administering or supervising the school health service. \* \* \*

13053. The qualifications of supervisors of health shall be as provided in Sections 13054 to 13059, inclusive. (Amended by Stats. 1943, Ch. 883.)

13054. The qualifications for a physician shall be an unrevoked certificate to practice medicine and surgery issued by this State and a health and development certificate.

13055. The qualifications for a teacher shall be a life diploma of this State or a special credential in physical education, and a health and development certificate.

13056. The qualifications for an oculist shall be a certificate to practice medicine and surgery in this State and a health and development certificate.

13057. The qualifications for a dentist or a dental hygienist shall be a certificate issued by the board of Dental Examiners of California and a health and development certificate.

13058. The qualifications for a nurse shall be a certificate of registration issued by the Board of Nurse Examiners of the State of California and a health and development certificate.

13059. The qualifications for an optometrist shall be a certificate issued by the State Board of Optometry and a health and development certificate.

13059.1. The qualifications for an otologist shall be a physician's and surgeon's certificate and a health and development certificate. (Added by Stats. 1943, Ch. 883.)

13059.2. The qualifications for an audiometrist shall be a certificate of registration as an audiometrist issued by the State Board of Public Health and a health and development certificate. (Added by Stats. 1943, Ch. 883.)

### **Health and Development Certificates**

12291. County or city and county boards of education may grant health and development certificates to the following:

(a) Persons holding physician's and surgeon's certificates issued by this State.

- (b) Persons holding life diplomas of this State and special credentials in physical education, issued by the State Board of Education.
- (c) Persons holding certificates to practice dentistry or dental hygiene issued by the Board of Dental Examiners of California.
- (d) Persons holding certificates to practice optometry issued by the State Board of Optometry.
- (e) Holders of certificates of registration as nurses issued by the Board of Nurse Examiners of the State of California.
- (f) Persons holding a certificate of registration as an audiometrist issued by the State Board of Public Health. (Amended by Stats. 1943, Chs. 364 and 883.)

(As amended by Stats. 1943, Ch. 364.)

12292. Each applicant shall present with his certificate a credential from the State Board of Education showing special fitness and training for the work in the public schools.

### III

## BUSINESS AND PROFESSIONS CODE

### TRAINED ATTENDANTS

#### Article 1. Administration

4500. Within the meaning of this chapter, department, unless otherwise specified, means the State Department of Public Health.

4501. The department may:

- (a) Issue certificates to applicants to care for the sick as trained attendants.
- (b) Formulate and issue rules and regulations from time to time as may be necessary for the proper conduct of the care of the sick by a trained attendant.
- (c) Establish centers of training for trained attendants.
- (d) Prescribe the course of instruction and length thereof.
- (e) Provide for an examination before a certificate may be issued.

#### Article 2. Regulations

4515. Any person applying for the certificate as trained attendant shall be at least eighteen years of age and of good moral character.

4516. He shall have had not less than one year's practical experience in the care of the sick in a reputable hospital or sanatorium, connected with a school for trained attendants, and systematic instruction in the following subjects: Anatomy and physiology, hygiene, diet for the sick, nursing care of the sick, including children and the aged, and obstetrics.

4517. All applicants for certificates as trained attendants shall be required to pass an examination. The examination shall be practical in character and designed to ascertain the applicant's fitness to practice his calling.

4518. It shall be conducted by a committee of three examiners appointed by the department and under such rules and regulations as the department may prescribe. It shall be held at least every six months and due notice of the examination shall be published in not less than three daily papers of the State.

4519. The subjects on which applicants shall be examined are elementary anatomy and physiology, hygiene, diet for the sick, nursing methods in the care of the sick, including children and aged people, and obstetrics. The department shall issue a certificate to each applicant successfully passing this examination.

4520. All persons who have received certificates in accordance with the provisions of this chapter shall be known and styled as trained attendants and may use the words "trained attendant" after their names.

### Article 3. Revocation of Certificates

4530. The department may revoke a certificate issued to any person for gross incompetency, dishonesty, addiction to the use of alcohol or narcotic drugs, or for any habit rendering him unsafe or unfit to care for the sick. Before revocation, notice of the charges shall be sent to the defendant with opportunity to appear in his own defense.

### Article 4. Offenses Against the Chapter

4540. Any person violating any of the provisions of this chapter is guilty of a misdemeanor and shall, upon conviction, be liable to a fine of not less than ten dollars nor more than one hundred dollars for the first offense, and not less than twenty dollars nor more than two hundred dollars for each subsequent offense.

4541. Any person who wilfully makes any false representation or who impersonates any other person or permits or aids in any manner any person to impersonate him in connection with any examination or application, is guilty of a misdemeanor.

4542. Unless authorized by this chapter, it is unlawful for any person to advertise as, or assume the title of trained attendant, or to use after his name the words "trained attendant" or any other words, letters or figures to indicate that the person using the same is a trained attendant, or to impersonate in any manner or pretend to be a trained attendant.

### Article 5. Revenue

4550. All accounts, collections and fines made under the provisions of this chapter shall be paid into the State treasury and shall be placed to the credit of the traveling and contingent fund of the Department of Public Health.

4551. The examination fee for all applicants is five dollars. In no case will the examination fee be returned to the applicant.

### Dental Hygienists

1740. Any person over the age provided in this article is eligible to take an examination before the Board of Dental Examiners as a dental hygienist upon making application for one.

1741. Preliminary to examination by the Board of Dental Examiners, a dental hygienist shall comply with all the requirements of this article.

He shall pay the fee required by law, which shall not be refunded, and shall present evidence of graduation or certification in a course or curricula in dental hygiene from a legally incorporated dental college,

dental infirmary, or any other institution of equal standing which maintains a course of instruction for dental hygienists equivalent in all respects to similar courses of instruction maintained in the University of California.

1742. He shall present evidence, also, that he is at least eighteen years of age and of good moral character and that he has complied with and fulfilled the preliminary and professional requirements of this chapter.

1743. Upon satisfactory evidence of compliance with the preliminary requirements, the Board of Dental Examiners shall give the applicant a thorough examination in the following subjects: Elements of inorganic chemistry, physiology, anatomy, bacteriology, anaesthesia, radiography, *materia medica*, dental histology, principles of nursing and hygiene; and a practical examination in the removal of deposits from and the polishing of the exposed surfaces of the teeth.

1744. After satisfactorily passing the examination, the applicant shall obtain a license as a dental hygienist from the Board of Dental Examiners and shall be registered as one by it.

The license shall remain in force until the annual license fee becomes due and thereafter so long as he complies with the provisions of this article relating to the annual fee, but not otherwise.

1745. But notwithstanding the payment of the fee, however, the license may at any time be forfeited or revoked for a violation of any provisions of this chapter that are applicable to dental hygienists.

1746. Any licensed dentist, public institution or school authority may employ a licensed and registered dental hygienist, who may remove lime deposits, accretions and stains from the exposed surface of the teeth, but shall not perform any other operation on the teeth or tissues of the mouth. He may operate in the office of any licensed dentist or in any public institution or in the schools under the general direction or supervision of a licensed dentist. But nothing in this article shall be construed as authorizing any dental hygienist to perform any operation in the mouth without supervision.

1747. The Board of Dental Examiners may revoke or suspend the license of any licensed dentist who shall permit any dental hygienist operating under his supervision to perform any operation other than that permitted under the provisions of this article, and the board may also revoke or suspend a license of any dental hygienist violating the provisions of this article.

1748. Every person licensed to practice as a dental hygienist in this State shall comply with all of the provisions of this chapter providing for the registration of practicing dentists, except that a separate book shall be kept by the county clerk for the registration of dental hygienists and except that the fee for the restoration of a license shall be the sum provided by this article.

1749. To provide a fund for the enforcement of the provisions of this article, every person holding a license as a dental hygienist in this State, without exception, shall pay an annual license fee for the year commencing with the first day of May next following the issuance of his license and annually thereafter.

1750. The payment to be effective shall be made prior to the commencement of the year for which the fee accrues and the receipt of the secretary shall be indispensable evidence that the same has been made.

1751. The failure, of any person who was a regularly licensed and registered hygienist to pay the annual fee in advance during the time his license remained in force shall ipso facto work a forfeiture of the license and it shall not be restored except upon a written application and the payment of the fee provided by law. Such person shall not be required to submit to any examination.

1752. The amount of charges and fees for dental hygienists prescribed by this article is that fixed by the following schedule:

(a) The fee for applicants for examination for a license is twenty-five dollars.

(b) The annual license fee is two dollars.

(c) The restoration fee for a license forfeited for the nonpayment of the annual fee is five dollars.

(d) The restoration fee for a license forfeited for nonregistration is five dollars.

### Illegal Advertising

600. It is unlawful for any person, firm, corporation or association, except boards of health, or agencies approved by the State Department of Public Health, to post or otherwise exhibit or distribute in any manner whatsoever in any place any advertising or other printed matter concerning venereal diseases, lost manhood, lost vitality, impotency, seminal emissions, self-abuse, varicocele, or excessive sexual indulgence, and calling attention to any medicine, device, compound, treatment or preparation that may be used therefor.

Any person violating the provisions of this section shall upon conviction therefor be punished by a fine of not more than five hundred dollars or by imprisonment in the county jail for not more than one year or by both such fine and imprisonment.

601. Every person who wilfully writes, composes or publishes any notice or advertisement of any medicine or means for producing or facilitating a miscarriage or abortion, or for the prevention of conception, or who offers his services by any notice, advertisement, or otherwise, to assist in the accomplishment of any such purpose is guilty of a felony and shall be punished as provided in the Penal Code.

### Ophthalmia Neonatorum

551. *Duty to administer prophylactic treatment at birth: Report to health officer.* It is the duty of any physician, surgeon, obstetrician,

midwife, nurse, maternity home or hospital of any nature, parent, relative and any person or persons attendant upon, or assisting in any way whatsoever, either the mother or child, or both, at childbirth, to treat both eyes of the infant within two hours after birth with a prophylactic efficient treatment, and in all cases where the child develops within two weeks after its birth ophthalmia neonatorum, and such person knows it to exist, to report the case within 24 hours after knowledge, in such form as the State Department of Public Health directs, to the local health officer of the county or city within which the mother of any such infant resides.

556. *Offenses: Punishment.* The failure of any person mentioned in Section 551 to report, or the failure of any maternity home, hospital, or similar institution, to use the treatment prescribed in Section 551 and to record any and all cases of ophthalmia neonatorum, as directed in Section 553, or the failure or refusal of any person or institution, mentioned in this article, to obey any rule or regulation adopted by the State Department of Public Health under this article constitutes a misdemeanor, and upon conviction thereof shall be fined, for the first offense not to exceed fifty dollars (\$50); for a second offense, not to exceed one hundred dollars (\$100); and for a third offense, and thereafter not to exceed two hundred dollars (\$200) for each violation.

## CLINICAL LABORATORY TECHNOLOGY

### Article 1. General Provisions

1200. *Construction of chapter.* Every provision of this chapter shall be liberally construed to protect the interests of all persons affected.

1201. *Definitions and explanations: "Person."* As used in this chapter, "person" includes firm, association and corporation.

1202. *Same: "Board."* As used in this chapter, "board" means the State Board of Health.

1203. *Same: "Clinical laboratory technologist."* As used in this chapter, "clinical laboratory technologist" means any person who engages in the work and direction of a clinical laboratory.

1204. *Same: "Clinical laboratory technician."* As used in this chapter, "clinical laboratory technician" means any person other than a physician and surgeon who, under the direction of a clinical laboratory technologist or a physician and surgeon, performs the technical procedure called for in a clinical laboratory.

1205. *Same: "Clinical laboratory."* As used in this chapter, "clinical laboratory" means any place, establishment or institution organized and operated for the practical application of one or more of the fundamental sciences by the use of specialized apparatus, equipment and methods for the purpose of obtaining scientific data which may be used as an aid to ascertain the presence, progress and source of disease.

## Article 2. Administration and Regulation

1220. *Duty and authority of board generally.* The board shall by regulation require that all clinical laboratories be conducted, maintained and operated without injury to the public health.

1221. *Employment of examiners: Rules governing examinations.* The board may employ special examiners, and may make regulations for the conduct of examinations under this chapter.

1222. *Exemption of apprentice technicians.* The board shall by regulation provide for the exemption from the licensing provisions of this chapter of one or more apprentice technicians in each laboratory.

1223. *Making of other regulations.* The board shall make all other regulations necessary for the enforcement of this chapter.

1224. *Inspection of methods and equipment: Recommendations.* Agents of the board may inspect and inquire into the methods and equipment used by clinical laboratories operating under this chapter. The board shall, when such methods or equipment are in its judgment a menace to public health, make recommendations for change to the director in charge.

1225. *Biennial report to Governor.* The board shall, within 30 days prior to the regular session of the Legislature, submit to the Governor a full and true report of transactions under this chapter during the preceding biennium, including a complete statement of receipts and expenditures during the period.

## Article 3

1240. *Practice of medicine, etc.* This chapter does not authorize any person to practice medicine and surgery or to furnish the services of physicians for the practice of medicine and surgery. This chapter does not repeal or in any manner affect any provision of this code relating to the practice of medicine.

1241. *Nonprofit and governmental laboratories.* This chapter does not apply to a clinical laboratory operated by any of the following:

- (a) Nonprofit hospitals.
- (b) Nonprofit hospital associations.
- (c) Any nonprofit hospital department which is chiefly maintained by dues or contributions from employees of a common employer or of a group of affiliated employers, the services of which are principally confined to such employees, their dependents and members of their families and persons disabled in or by reason of the operations of the employer or group of employers.

- (d) The State of California, or the United States of America, or any department, official or agency thereof.

- (e) Nonprofit foundations engaged in research work.

#### Article 4. Licensing

1260. *Technologists.* The board shall issue a clinical laboratory technologist's license to each person who holds a degree in one or more of the fundamental sciences issued by a recognized institution and whom the board finds by written, oral and practical examination to be properly qualified.

1261. *Technicians.* The board shall issue a clinical laboratory technician's license to each person found by it to be properly qualified and it may hold examinations either written, oral or practical, to aid it in judging the qualifications of applicants.

1262. *Temporary licenses.* The board may issue a temporary clinical laboratory technologist's license or a temporary clinical laboratory technician's license, to cover a period sufficient for the giving of examinations, or for the determination of the qualifications of applicants.

1263. *Coverage of licenses.* Licenses issued under this chapter may cover work in any one basic science, or may cover proficiency in the entire field of clinical laboratory work.

1264. *Display of licenses of laboratory supervisors, etc.* Any person maintaining, conducting or operating a clinical laboratory shall display in a prominent place in the clinical laboratory, the license of each person supervising and directing the clinical laboratory.

1265. *Grounds for revocation.* A license under this chapter may be revoked by the board for good cause after hearing on notice.

#### Article 5. Offenses Against the Chapter

1280. *Acting without license: As technologist.* It is unlawful for any person to act as a clinical laboratory technologist unless he is licensed in that capacity under this chapter.

1281. *Same: As technician.* It is unlawful for any person to act as a clinical laboratory technician unless he is licensed in that capacity under this chapter.

1282. *Tests by unqualified operators: Persons qualified.* It is unlawful for any person to make any test or examination in a clinical laboratory which requires the application of one or more of the fundamental sciences such as bacteriology, biochemistry, serology and parasitology, unless the person is one of the following:

- (a) A licensed clinical laboratory technician in the subject or subjects concerned with the test or examination.
- (b) A licensed clinical laboratory technologist.
- (c) A physician and surgeon licensed under the chapter on medicine of this code.

1283. *Operation of laboratory without supervision of licensed person.* It is unlawful for any person to conduct, maintain or operate a

clinical laboratory unless such clinical laboratory is under the immediate supervision and direction of one of the following:

- (a) A licensed clinical laboratory technologist.
- (b) A physician and surgeon licensed under the chapter on medicine of this code.

1284. *Employment of unlicensed technicians and non-exempt apprentices.* It is unlawful for any person conducting, maintaining or operating a clinical laboratory to employ any technician except a licensed clinical laboratory technician or an apprentice technician exempted from the licensing provisions of this chapter under the regulations of the board.

1285. *Apprentice working in absence of licensed technician.* It is unlawful for an apprentice technician to work or be employed in a clinical laboratory unless there are on the active laboratory staff one or more licensed clinical laboratory technicians.

1286. *Simultaneous employment of more than two apprentices.* It is unlawful for more than two apprentice technicians to work or be employed at the same time in the same clinical laboratory.

1287. *Grade of offenses.* Any person who violates this chapter is guilty of a misdemeanor.

#### Article 6. Revenue

1300. *Fixation of fees: Maxima.* The amount of application and license fee under this chapter shall be fixed by the board, subject to the following:

- (a) The application fee for a clinical laboratory technologist's license shall not exceed ten dollars (\$10).
- (b) The annual fee for a clinical laboratory technologist's license shall not exceed ten dollars (\$10).
- (c) The application fee for a clinical laboratory technician's license shall not exceed five dollars (\$5).
- (d) The annual fee for a clinical laboratory technician's license shall not exceed one dollar (\$1).

1301. *Application fees: Coverage.* The application fee required by this chapter covers the issuance of the license and the license fee for the remainder of the calendar year during which the license is issued.

1302. *Same: Return on failure in examination.* If any applicant fails an examination given under this chapter, no part of the application fee shall be returned.

1303. *Time for payment of annual fees: Effect of default.* The annual fee set under this chapter shall be paid within 60 days after the commencement of each calendar year.

Failure to pay the annual license fee within 60 days after the commencement of the year in which it is due shall automatically cancel any license issued under this chapter, subject, however, to reinstatement under such rules and regulations as the board may make therefor.

1304. *Collection of fees: Reports: Deposit to credit of clinical laboratory fund.* All fees set under this chapter shall be collected by and paid to the board. Within 10 days after the beginning of each month the board shall report to the State Controller the amounts and sources of the collections made under this chapter during the preceding month, and at the same time all such moneys shall be paid into the State Treasury to the credit of the clinical laboratory fund, which fund is hereby continued in existence.

1305. *Appropriation of moneys in fund: Purpose.* All moneys in the clinical laboratory fund are hereby appropriated to the board, to be expended only for the administration of this chapter.

**IV**  
**INSURANCE CODE**

**NONPROFIT HOSPITAL SERVICE PLANS**

**Article 1. Scope of Chapter**

11491. This chapter shall not apply to nor govern any corporation which is organized for profit, which contemplates any pecuniary gain to its shareholders or members, or which conducts or is authorized by its articles of incorporation to conduct any business whatsoever on a profit basis. This chapter shall not authorize nor be construed to authorize, directly or indirectly, any corporation to operate a hospital service plan on a profit basis. No corporation subject to the provisions of this chapter shall own or operate any hospital nor engage in any business other than that of establishing, maintaining and operating a nonprofit hospital service plan.

**Article 2. Definitions**

11493. "Hospital services," as used in this chapter, may include any or all of the following services: maintenance and care in hospital, nursing care, drugs, medicines, physiotherapy, transportation, material appliances and their upkeep.

**Article 3. Formation and Organization of Nonprofit Hospital Service Plan Corporations**

11495. Any corporation heretofore or hereafter organized under the laws of the State of California without capital stock for the sole purpose of maintaining and operating a hospital service plan, as provided in this chapter, and which does not contemplate pecuniary gain or profit to its members, may undertake and operate a hospital service plan for rendering hospital service to its subscribers under and subject to the provisions of this chapter.

11496. Persons desiring to form a nonprofit hospital service corporation shall incorporate pursuant to the provisions of this chapter and the provisions of Division 1, Part 4, Title 12, of the Civil Code of the State of California, so far as the provisions of said Civil Code are applicable and not inconsistent with this chapter.

11497. No corporation operating under the provisions of this chapter shall enter into any contract for the rendering of hospital services to the subscribers of a hospital service plan with any hospital wholly or partly supported by taxation, except where such hospital is the only hospital in the country where it is located, or is a hospital maintained and operated by a university, or in connection with a State college or the University of the State of California in conjunction with and as a part of its educational and administrative program.

11498. At least two-thirds of the directors of such a corporation shall be composed equally of duly appointed representatives of hospitals with which the corporation has contracts for the rendering of hospital services and duly qualified and licensed practicing physicians holding a valid and unrevoked certificate to practice medicine and surgery or a physician and surgeon certificate, issued under the provisions of the State Medical Practice Act in the State of California.

11499. Any corporation heretofore operating under Chapter 9 of this part, but which has issued and outstanding hospital service contracts only, may be transformed to operate under and pursuant to this chapter as follows:

(1) Such corporation shall first amend its articles to conform to the provisions of this chapter.

(2) A copy of the articles of incorporation as theretofore last amended, certified by the Insurance Commissioner, together with a certificate of amendment thereof prepared pursuant to the provisions of Section 362b of the Civil Code, shall be submitted to the Secretary of State for filing and endorsement, and filed with the county clerks pursuant to that section. Such certificate of amendment shall set forth in full the articles of incorporation as amended. The filing thereof with the Secretary of State shall be in lieu of the incorporation, otherwise herein required, under the provisions of Division 1, Part 4, Title 12, of the Civil Code of the State of California.

(3) A copy of such certificate of amendment, certified by the Secretary of State, shall promptly be filed with the commissioner.

(4) Such filing shall be in lieu of the proceedings required by Section 11496. Thereafter such corporation shall comply with all requirements of this chapter except those required by Section 11496.

(5) For the purpose of determining whether or not the transforming corporation has sufficient assets to comply with this chapter, the deposit of such corporation made and held pursuant to Section 10830, shall be deemed its assets, and the reserves and liabilities required by this chapter shall be as herein prescribed in respect to contracts outstanding at the time of issue of certificate of authority to operate under this chapter.

(6) Contracts issued in compliance with Chapter 9 of this part, and outstanding at the time of issue of certificate of authority under this chapter, may be continued in force, reinstated, and renewed under this chapter without change of provisions, except as such change may be necessary or advisable at or following the next renewal or reinstatement.

#### Article 4. Commencement of Business

11501. No corporation subject to the provisions of this chapter shall establish, maintain and operate its hospital service plan unless and until it shall have procured a certificate of approval from the State Department of Public Health approving the hospital, or hospitals, with which such corporation has entered, or proposes to enter, into contracts for the furnishing of hospital service to its subscribers and such corporation shall not enter into any contract with any hospital within this State for the furnishing of hospital service to its subscribers unless the hospital with which it contracts has procured a certificate of approval from

said department; provided, however, that hospital services may be rendered to the subscriber in a hospital not holding a certificate of approval if the subscriber requiring hospitalization has removed from or is absent from the State, or in cases of emergency where immediate treatment is necessary and removal to an approved hospital would endanger the life or health of the subscriber. The State Department of Public Health shall not issue any certificate of approval provided for in this chapter unless and until the applicant therefor shall have established to the satisfaction of said department that the hospitals wherein subscribers to hospital service plans concerned are to be hospitalized possess adequate physical facilities, mechanical equipment, and personnel for the study, diagnosis, treatment and care of patients.

11502. The State Department of Public Health, before issuing its certificate authorizing any hospital to furnish hospital services under any hospital service plan, shall cause the hospital to be inspected by an inspector appointed by the said department. The report of such inspection shall be filed with the State Department of Public Health. If the State Department of Public Health shall find after such inspection that the hospital making application to render hospital services under the hospital service plan fully complies with and possesses the standards set forth in this section, it shall issue its certificate of approval upon the payment of a registration fee, not to exceed twenty-five cents (\$0.25) per bed, computed upon the daily average number of beds, other than bassinets, occupied during the preceding calendar year, but in no event less than fifteen dollars (\$15) per hospital.

11503. The State Department of Public Health shall have the right and power to investigate, regulate and enforce the hospital standards set forth in Sections 11501 and 11502 of this chapter in respect to all hospitals furnishing and rendering hospital services under the provisions of this chapter and to revoke certificates of approval theretofore issued to any hospital, or any hospital service corporation. Upon complaint deemed by the department to be sufficient to warrant such action, or upon its own motion, the State Department of Public Health shall hold a hearing at which the corporation or hospital under investigation and against which action is proposed to be taken shall have the right to be heard. At least ten days' written notice of the time and place of such hearing shall be served upon or mailed to said corporation and said hospital. At such hearing the department shall have the right to order and direct the corporation or the hospital, as the case may be, and within such period of time as the board may prescribe, to remedy and remove the causes complained of and in which to comply with the acts and things required in such order, and may continue the hearing until the expiration of said period of time. If the department upon final hearing shall find that its order has not been complied with, and that the hospital does not possess the hospital standards set forth in Sections 11501 and 11502, or that services are rendered by the hospital service corporation in and through hospitals not possessing said standards, the board shall enter its order revoking the certificate of approval to any such hospital or hospital service corporation and shall notify the Commissioner of Insurance in writing of the fact of such revocation and of the fact that the services rendered under the hospital service plan are not being rendered by hospitals holding

certificates of approval. Upon receipt of such notice, it shall be the duty of the Commissioner of Insurance to revoke his certificate of authority to the establishment, maintenance and operation by such corporation of a nonprofit hospital service plan.

11504. No corporation shall establish, maintain or operate a non-profit service plan as authorized by the provisions of this chapter unless it shall first have procured a certificate of authority from the Commissioner of Insurance of this State for the establishment, maintenance and operation of said hospital service plan.

11505. The Commissioner of Insurance shall not issue his certificate of authority to any corporation proposing to establish, maintain or operate a nonprofit hospital service plan until such corporation shall have established :

(a) That the corporation has entered into contracts with hospitals holding certificates of approval issued by the State Department of Public Health and having an aggregate bed capacity sufficient to render the services contemplated to be furnished under the hospital service plan.

(b) That the contract proposed to be entered into by such corporation with those who may become subscribers is not such as will work a fraud or injustice upon such subscribers or any person.

(c) That the rates, dues, fees or other periodic charges to be imposed upon subscribers and the fees, rates or other considerations to be paid for services rendered to subscribers, are not such as will, after providing for such legal reserves as the Insurance Commissioner may deem necessary and reasonable, result in profit to such corporation, and are such as will enable such corporation to furnish or provide the hospital services which it proposes to make available to its subscribers without impairment of the legal reserves fixed and required by the Insurance Commissioner, and without a constant depletion of the assets of such corporation.

### Article 5. Finances and Reserves

11507. No corporation subject to the provisions of this chapter shall establish, maintain or operate a hospital service plan unless it shall have and at all times maintain a reserve fund equal to the following minimum amounts in relation to the number of subscribers to its plan :

Number of Subscribers	Amount of Reserve Fund
2500 or less-----	\$10,000.00
2501 to 3500, inclusive-----	12,500.00
3501 to 4500, inclusive-----	15,000.00
4501 to 5500, inclusive-----	17,500.00
5501 and above-----	20,000.00

In computing said reserve fund, the commissioner shall include the amounts agreed to be paid by contracting hospitals to the corporation or its equivalent value of hospital service to be rendered without charge by the contracting hospital to the hospital service corporation.

11508. A corporation organized hereunder shall be deemed to be insolvent if its reserve fund shall be impaired so as to be less than the

amounts set forth in this section of the chapter. In determining whether there has been an impairment of the reserve fund of the hospital service corporation, the unexpired portions of all premiums, dues or other payments received by and paid to the corporation on contracts then in force shall be deemed a liability.

11509. Every corporation subject to the provisions of this chapter shall annually, on or before the first day of March, file in the office of the Commissioner of Insurance of this State a statement verified by at least two of the principal officers of said corporation, showing its condition and affairs as of the thirty-first day of December then next preceding, which shall be in such form as shall be required by said commissioner and shall contain statements relative to the matters required to be established as a condition precedent to maintaining or operating a nonprofit hospital service plan and to other matters as said commissioner shall prescribe.

11510. All acquisition costs in connection with the solicitation of subscribers to such hospital service plan shall at all time be subject to the approval of the Commissioner of Insurance, and the administrative expenses for any calendar year of any such corporation organized under this chapter, including acquisition costs, shall be limited to 25 per cent of the aggregate amount of gross premiums actually received during that year. If the commissioner shall find that acquisition costs of any corporation operating under the provisions of this chapter are excessive, or that the administrative expenses exceed the amount above stated, such finding shall be sufficient ground to justify the commissioner in revoking his consent to the establishment, maintenance and operation by such corporation of the hospital service plan.

#### Article 6. The Contract

11512. No hospital service contract shall be entered into between a corporation proposing to furnish or provide any one or more of the services authorized under this chapter and a subscriber:

(a) Unless the entire consideration therefore is expressed in the contract;

(b) Unless the times at which the benefits or services to the subscriber take effect and terminate are stated in a portion of the contract above the evidence of its execution;

(c) If the contract purports to entitle more than one person to benefits or services; except that a husband and wife and their child or children may secure the benefits under one contract if the contract is issued and marked as a family contract;

(d) Unless every printed portion and any endorsement or attached papers is plainly printed in type of which the face is not smaller than 10 points;

(e) Unless the exceptions of the contract are printed with greater prominence than the benefits to which they apply;

(f) Unless, if any portion of such contract purports, by reason of the circumstances under which an illness, injury or disablement is incurred to reduce any service to less than that provided for the same illness, injury or disablement incurred under ordinary circumstances,

such portion is printed in bold-face type and with greater prominence than any other text of the contract;

(g) If the contract contains any provisions purporting to make any portion of the charter, constitution or by-laws of such nonprofit corporation a part of the contract unless such portion is set forth in full in the contract;

(h) Unless such contract for hospital service contains in black-face type not less than 10-point the following provisions:

“Nothing in this contract contained shall in any way or manner restrict or interfere with the right of the subscriber to select the contracting hospital or to make a free choice of his attending physician, who shall be the holder of a valid and unrevoked physician and surgeon’s certificate and who is a member of, or acceptable to, the attending staff and board of directors of the hospital in which said hospital services are to be provided and rendered.”

11513. A hospital service contract shall not be issued or delivered in this State until:

(a) A copy of the form thereof, and, if more than one class of risks is written, of the classification of risks, and the consideration payable by the subscriber pertaining thereto are filed with the commissioner.

(b) Either:

(1) Thirty days expires without notice from the commissioner after such copy is filed, or,

(2) The commissioner gives his written approval prior to that time.

11514. If the commissioner notifies the corporation, in writing, that the filed form does not comply with the requirements of law, specifying the reasons for his opinion, it is unlawful for the corporation thereafter to issue any contract in such form.

#### Article 7. Exemptions, Exceptions and Special Provisions

11517. The provisions of this code governing domestic incorporated insurers, their business, and their contracts shall, so far as applicable and not inconsistent herewith, govern corporations subject to this chapter and the business and contracts of such corporations, except that such corporations, their business and contracts shall not be subject to the following provisions of this code:

Article 2, Chapter 1, Part 2, Division 1.  
Article 7, Chapter 1, Part 2, Division 1.  
Article 10, Chapter 1, Part 2, Division 1.  
Article 11, Chapter 1, Part 2, Division 1.  
Article 12, Chapter 1, Part 2, Division 1.  
Article 13, Chapter 1, Part 2, Division 1.  
Chapter 4, Part 2, Division 2.  
Part 4, Division 2.

SEC. 2. Chapter 386 of the Statutes of 1935, being “An Act for the Regulation and Control of Corporations Organized for the Purpose of Operating Nonprofit Hospital Service Plans,” approved July 5, 1935, is hereby repealed.

V

**FOODS AND DRUGS**

**PENAL CODE**

382. *Adulteration of food, drugs, liquors, etc.: Sale of adulterated, diluted or different article: Guaranty of purity from vendor a defense.* Every person who adulterates or dilutes any article of food, drink, drug, medicine, spirituous or malt liquor, or wine, or any article useful in compounding them, with the fraudulent intent to offer the same, or cause or permit it to be offered for sale as unadulterated or undiluted; and every person who fraudulently sells, or keeps or offers for sale the same, as unadulterated or undiluted, or who, in response to an inquiry for any article of food, drink, drug, medicine, spirituous or malt liquor, or wine, sells, or offers for sale, a different article, or an article of a different character or manufacture, without first informing such purchaser of such difference, is guilty of a misdemeanor; provided, that no retail dealer shall be convicted under the provisions of this section if he shall prove a written guaranty of purity obtained from the person from whom he purchased such adulterated or diluted goods.

382.5. *Sale, administration, or prescription of dinitrophenol: Punishment: When not an offense.* Every person who sells, dispenses, administers or prescribes dinitrophenol for any purpose shall be guilty of a felony, punishable by a fine not less than one thousand dollars nor more than five thousand or by imprisonment in the State prison for not less than one year, nor more than fourteen years, or by both such fine and imprisonment.

This section shall not apply to dinitrophenol manufactured or sold as an economic poison registered under the provision of Section 1071 of the Agricultural Code nor to sales for use in manufacturing or for scientific purposes, and not for human consumption.

382.6. *Sale, administration, etc., of certain chemicals for dyeing eyebrows and eyelashes.* Every person who sells, dispenses, administers or prescribes preparations containing diphenylamine, paraphenylenediamine, or paratoluylenediamine, or a derivative of any such chemicals, to be used as eyebrow and eyelash dyes shall be guilty of a felony, punishable by a fine not less than one thousand dollars nor more than five thousand, or by imprisonment in the State prison for not less than one year, nor more than fourteen years, or by both such fine and imprisonment.

383. *Sale of adulterated or unwholesome food, drink or drug: Punishment: Expense of inspection and analysis: "Drug" and "food" defined: Articles deemed adulterated.* Every person who knowingly sells, or keeps or offers for sale, or otherwise disposes of any article of food, drink, drug, or medicine, knowing that the same is adulterated or

has become tainted, decayed, spoiled, or otherwise unwholesome or unfit to be eaten or drunk, with intent to permit the same to be eaten or drunk, is guilty of a misdemeanor, and must be fined not less than twenty-five nor more than one hundred dollars, or imprisoned in the county jail not exceeding one hundred days, or both, and may, in the discretion of the court, be adjudged to pay, in addition, all the necessary expenses, not exceeding fifty dollars, incurred in inspecting and analyzing such articles.

“Drug” and “Food” defined. The term “drug” as used herein, includes all medicines for internal or external use, antiseptics, disinfectants, and cosmetics. The term “food,” as used herein, includes all articles used for food or drink by man, whether simple, mixed, or compound. Any article is deemed to be adulterated within the meaning of this section:

Drugs deemed to be adulterated. (a) In the case of drugs: (1) If, when sold under or by a name recognized in the United States Pharmacopoeia, it differs materially from the standard of strength, quality, or purity laid down therein; (2) If, when sold under or by a name not recognized in the United States Pharmacopoeia, but which is found in some other pharmacopoeia or other standard work on *materia medica*, it differs materially from the standard of strength, quality, or purity laid down in such work; (3) If its strength, quality, or purity falls below the professed standard under which it is sold.

Food deemed to be adulterated. (b) In the case of food: (1) If any substance or substances have been mixed with it, so as to lower or depreciate, or injuriously affect its quality, strength, or purity; (2) If any inferior or cheaper substance or substances have been substituted wholly or in part for it; (3) If any valuable or necessary constituent or ingredient has been wholly or in part abstracted from it; (4) If it is an imitation of, or is sold under the name of, another article; (5) If it consists wholly, or in part, of a diseased, decomposed, putrid, infected, tainted or rotten animal or vegetable substance or article, whether manufactured or not; or in the case of milk; if it is the produce of a diseased animal; (6) If it is colored, coated, polished, or powdered, whereby damage or inferiority is concealed, or if by any means it is made to appear better or of greater value than it really is; (7) If it contains any added substance or ingredient which is poisonous or injurious to health.

383a. *Sale or possession of process or renovated butter without being so marked.* Any person, firm, or corporation, who sells or offers for sale, or has in his or its possession for sale, any butter manufactured by boiling, melting, deodorizing, or renovating, which is the product of stale, rancid, or decomposed butter, or by any other process whereby stale, rancid, or decomposed butter is manufactured to resemble or appear like creamery or dairy butter, unless the same is plainly stenciled or branded upon each and every package, barrel, firkin, tub, pail, square, or roll, in letters not less than one-half inch in length, “process butter,” or “renovated butter,” in such a manner as to advise the purchaser of the real character of such “process” or “renovated” butter, is guilty of a misdemeanor.

383b. *Fraudulent sale or offer for sale of “kosher” meats and preparations: Punishment: “Kosher” defined.* Every person who with

intent to defraud, sells or exposes for sale any meat or meat preparations, and falsely represents the same to be kosher, whether such meat or meat preparations be raw or prepared for human consumption, or as having been prepared under and from a product or products sanctioned by the orthodox Hebrew religious requirements; or falsely represents any food product, or the contents of any package or container, to be so constituted and prepared, by having or permitting to be inscribed thereon the words "kosher" in any language; or sells or exposes for sale in the same place of business both kosher and nonkosher meat or meat preparations, either raw or prepared for human consumption, who fails to indicate on his window signs in all display advertising in block letters at least four inches in height "kosher and nonkosher meats sold here"; or who exposes for sale in any show window or place of business as both kosher and nonkosher meat preparations, either raw or prepared for human consumption, who fails to display over each kind of meat or meat preparation so exposed a sign in block letters at least four inches in height, reading "kosher meat" or "nonkosher meat" as the case may be; or sells or exposes for sale in any restaurant or any other place where food products are sold for consumption on the premises, any article of food or food preparations and falsely represents the same to be kosher, or as having been prepared in accordance with the orthodox Hebrew religious requirements; or sells or exposes for sale in such restaurant, or such other place, both kosher and nonkosher food or food preparations for consumption on the premises, not prepared in accordance with the Jewish ritual, or not sanctioned by the Hebrew orthodox religious requirements, and who fails to display on his window signs in all display advertising, in block letters at least four inches in height "kosher and nonkosher food served here" is guilty of a misdemeanor and upon conviction thereof (shall) be punishable by a fine of not less than fifty dollars, nor more than three hundred dollars, or imprisonment in the county jail of not less than thirty days, nor more than ninety days, or both such fine and imprisonment.

Definition. The word "kosher" is here defined to mean a strict compliance with every Jewish law and custom pertaining and relating to the killing of the animal or fowl from which the meat is taken or extracted, the dressing, treatment and preparation thereof for human consumption, and the manufacture, production, treatment and preparation of such other food or foods in connection therewith Jewish laws and customs obtain and to the use of tools, implements, vessels, utensils, dishes and containers that are used in connection with the killing of such animals and fowls and the dressing, preparation, production, manufacture and treatment of such meats and other products, foods and foodstuffs.

**347b. Poisonous alcoholic solutions: Disposition or manufacture: Burden of proof: Punishment.** It shall be unlawful for any person, firm or corporation to manufacture, sell, furnish, or give away, or offer to manufacture, sell, furnish, or give away any alcoholic solution of a potable nature containing any deleterious or poisonous substance, and the burden of proof shall be upon the person, firm, or corporation manufacturing, selling, furnishing, or giving away, of offering to manufacture, sell, furnish, or give away any such alcoholic solution of a potable nature containing any deleterious or poisonous substance, to show that such alcoholic solution of a potable nature did not contain any deleterious or

poisonous substance. Every person who violates any of the provisions of this section is guilty of a misdemeanor, and shall be punished by a fine of not less than five hundred dollars or more than two thousand dollars or by imprisonment for not less than thirty days or more than two years, or by both such fine and imprisonment.

## FOOD SANITATION ACT

(Act approved March 6, 1909; Statutes 1909, Amended—Chapter 359, Statutes 1937. Chapter 942, Statutes 1939.)

*An act providing for the sanitation of food producing establishments, places where food is stored, prepared, kept or manufactured and in which food is distributed; regulating the use of sealed containers and providing for the sterilization of bottles, receptacles and containers used for food, drugs and liquors; regulating the health of persons by whom materials from which food is prepared or the finished product is handled; providing for the inspection of such places, persons and things; declaring places and things in violation of this act to be nuisances, dangerous to health and providing for the abatement of same; providing for the licensing of premises upon which walnuts are shelled or otherwise prepared and for the inspection of such premises and prohibiting the purchase, acquisition or receiving of walnuts shelled or prepared other than on licensed premises; providing for license fees; providing for producer exemption and empowering the California State Board of Public Health to make rules and regulations, and providing for the keeping of records; making violations of this act misdemeanors; and providing for the punishment of the same.*

### Places Where Food Handled to Be Kept Sanitary

SECTION 1. Every building, room, basement or cellar, occupied, or used as a bakery, confectionery, cannery, packing-house, slaughterhouse, restaurant, hotel, grocery, meat market, or other place or apartment, used for the production, preparation for sale, manufacture, packing, storage, sale or distribution of any food, shall be properly lighted, drained, plumbed and ventilated, and conducted with strict regard to the influence of such conditions upon the health of the operatives, employees, clerks or other persons therein employed, and the purity and wholesomeness of the food therein produced, kept, handled or sold; and for the purpose of this act the term "food" shall include all articles used for food, drink, confectionery or condiment, whether simple or compound, and all substances and ingredients used in the preparation thereof.

### Unsanitary Conditions Defined—Dispensing of Bulk Foods

SEC. 2. The floors, sidewalks, ceilings, furniture, receptacles, utensils, implements and machinery of every establishment or place where food is manufactured, packed, stored, sold or distributed, shall at no time be kept in an unclean, unhealthful or unsanitary condition; and for the purposes of this act, unclean, unhealthful and unsanitary conditions shall be deemed to exist if food in the process of manufacture, preparation, packing, storing, sale or distribution is not securely protected from flies, dust, dirt, unsanitary conditions, and as far as may be necessary, by all

reasonable means from all other foreign or injurious contamination; and if the refuse, dirt, and the waste products subject to decomposition and fermentation incident to the manufacture, preparation, packing, storing, selling, and distributing of food, are not removed daily; and if all trucks, trays, boxes, baskets, buckets, and other receptacles, chutes, platforms, racks, tables, shelves, and all knives, saws, cleavers, and all other utensils, receptacles and machinery, used in moving, handling, cutting, chopping, mixing, canning, and all other processes used in the preparation of food, are not thoroughly cleaned daily; and if the clothing of operatives, employees, clerks and other persons therein employed, is unclean, or if they dress or undress, or leave or store their clothing therein.

SEC. 2a. It shall be unlawful to sell or otherwise dispose of at retail jams, jellies, preserves, marmalades, peanut butter, horseradish, mayonnaise or salad dressings other than in closed containers approved by the California State Board of Public Health when within the discretion of that board any other method or practice of sale or disposition of such foods or food products is conducive to the contamination thereof by flies, insects, dust, dirt or foreign material of any kind whatsoever, except when sold in bulk for manufacturing purposes; provided that none of the provisions of this act shall be applicable to containers mentioned within the provisions of Division 4 of the Agricultural Code. (1937 Amendment)

### Bottle Sterilization and License

SEC. 2b. The use or the sale for use of bottles, glass or crockery food containers of any nature whatsoever other than those not previously used, in the manufacture, production, preparation, compounding, blending, or packing for sale of a food, drug or liquor shall be unlawful unless the person, firm, company, organization, association or corporation so using or selling for said use such bottles, receptacles or containers has been duly licensed by the California State Board of Public Health. The board shall issue the said license to any applicant upon the receipt of such evidence as the board may require to show that the said applicant is properly equipped for the sterilization of those bottles, receptacles or containers covered by this section. The applicant shall be deemed properly equipped by maintaining and using the following standards in said cleansing and sterilization, to wit:

All bottles or glass or crockery food containers covered by this section shall be cleaned and sterilized by soaking in a hot caustic solution of not less than one hundred twenty degrees Fahrenheit which shall be indicated by a thermometer, and such solution shall contain not less than two and one-half per cent of caustic soda expressed in terms of sodium hydrates for a period of not less than five minutes then thoroughly rinsed in pure water. The cleansing solution shall be changed frequently so as to prevent it becoming foul and insanitary. All bottles shall be sterilized and free from rust or contamination.

The licensee shall issue his certificate with each shipment of bottles to the purchaser, which certificate shall state that the licensee has cleansed or sterilized the bottles in the manner provided herein. In the event said licensee shall fail to maintain the equipment and to cleanse or sterilize the bottles and any glass or crockery food containers covered by this section, in the manner provided herein and shall issue said certificate

knowing the same to be false, that the board may, after hearing duly had, revoke his license.

If the purchaser of bottles or glass or crockery food containers covered by and for the use included within this section can show a certificate of sterilization signed by the seller thereof who has been duly licensed, the said purchaser shall have sufficiently complied with the terms of this section.

Nothing herein contained shall be deemed to prohibit the sale for use of bottles or glass or crockery food containers covered by this section, which have not been so cleansed and sterilized, to a purchaser who is duly licensed under the provisions of this section, to cleanse and sterilize such bottles or glass or crockery food containers. (1937 Amendment)

### **Second-hand Tin Plate Food Containers**

SEC. 2c. Food containers manufactured from second-hand tin plate, and intended for the packing of hermetically sealed canned food products intended to be used for human consumption shall not be so used for packing unless the tin plate from which said containers are manufactured has, prior to the manufacture of the containers, been cleansed and sterilized by being thoroughly immersed in boiling water, and then dried on hot rolls or by the use of heated air. The California State Board of Public Health is hereby given authority to inspect all places where said containers are manufactured for the purpose of enforcing the provisions of this section. (1937 Amendment)

### **Walnut Shelling Plants**

SEC. 2d. It is hereby found that existing labor and market conditions are causing an increased amount of walnuts to be shelled and otherwise prepared for sale and distribution, in small decentralized plants, workshops and in homes other than on the farm; that the obligation imposed by law upon health and sanitation law enforcement officers, both State and local, to find such plants, workshops and homes so that they may be inspected has, by reason of the foregoing, become unduly burdensome; that unless such location and inspection of such plants, workshops and homes is made easier, the public health will be threatened.

(1939 Amendment)

### **Wall to Be Plastered, Etc.**

SEC. 3. The sidewalls and ceilings of every bakery, confectionery, hotel and restaurant kitchen, shall be well plastered, or ceiled, with metal or lumber, or shall be oil painted or kept well lime washed, or otherwise kept in a good sanitary condition and all interior woodwork of every bakery, confectionery, hotel and restaurant kitchen, shall be kept well oiled or painted with oil paint, and be kept washed clean with soap and water or otherwise kept in a good sanitary condition; and every building, room, basement or cellar, occupied or used for the preparation, manufacture, packing, storage, sale or distribution of food, shall have an impermeable floor, made of cement or tile laid in cement, brick, wood or other suitable, non-absorbent material which can be flushed and washed clean with water.

### Screens for Doors and Openings

SEC. 4. The doors, windows and other openings of every food producing or distributing establishment, where practicable, shall be fitted with stationary or self-closing screen doors and wire window screens, of not coarser than fourteen mesh wire gauze.

### Toilets and Lavatories

SEC. 5. Every building, room, basement or cellar, occupied or used for the preparation, manufacture, packing, canning, sale or distribution of food, shall have convenient toilet or toilet rooms, separate and apart from the room or rooms where the process of production, manufacture, packing, canning, selling or distributing, is conducted. The floors of such toilet rooms shall be of cement, tile laid in cement, wood, brick or other non-absorbent material, and shall be washed and scoured daily. Such toilets shall be furnished with separate ventilating pipes or flues, discharging into soil pipes, or on the outside of the building in which they are situated. Lavatories and washrooms shall be adjacent to toilet rooms, and shall be supplied with soap, running water and towels, and shall be maintained in a clean and sanitary condition. Operatives, employees, clerks and all persons who handle the material from which food is prepared, or the finished product, before beginning work and immediately after visiting a toilet or lavatory shall wash their hands and arms thoroughly in clean water.

### Cuspidors

SEC. 6. Cuspidors, for the use of operatives, employees, clerks and other persons, shall be provided, and each cuspidor shall be emptied and washed out daily with disinfectant solution and not less than five ounces of such solution shall be left in each cuspidor while in use. No operative, employee, clerk or other person, shall expectorate or discharge any substance from his nose or mouth, on the floor or interior sidewall of any building, room, basement, or cellar where the production, manufacture, packing, storing, preparation or sale of any food product is conducted.

### Sleeping

SEC. 7. No person shall be allowed to, nor shall he, reside or sleep in any room of a bake shop, public dining room, hotel or restaurant kitchen, confectionery, or other place where food is prepared, produced, manufactured, served or sold.

### Diseased Employees

SEC. 8. No employer shall require, permit or suffer any person to work, nor shall any person work, in a building, room, basement, cellar, place or vehicle, occupied or used for the production, preparation, manufacture, packing, storage, sale, distribution or transportation of food, who is afflicted or affected with any venereal disease, smallpox, diphtheria, scarlet fever, yellow fever, tuberculosis, consumption, bubonic plague, Asiatic cholera, leprosy, trachoma, typhoid fever, epidemic dysentery, measles, mumps, German measles, whooping cough, chicken pox, or any other infectious or contagious disease.

## Inspection

SEC. 9. The members of the State Board of Health, inspectors and agents appointed by said board, and all local health officers and inspectors, shall have full power at all times to enter every building, room, basement, cellar, or any place occupied or used, or suspected of being occupied or used, for the production, manufacture, preparation, storage, sale or distribution of food, and to inspect the premises and all utensils, implements, receptacles, fixtures, furniture and machinery used as aforesaid, and if, upon inspection, any such building, room, basement, cellar, or any such place, vehicle, employer, operative, employee, clerk, driver, or other person, is found to be in violation or violating any of the provisions of this act, or if the production, preparation, manufacture, packing, storing, sale or distribution of food is being conducted in a manner detrimental to the health of the employees or operatives or to the character or quality of the food therein being produced, manufactured, packed, stored, sold, distributed or conveyed, the officer or inspector making the examination shall at once make a written report of the same to the district attorney of the county who shall prosecute all persons violating any of the provisions of this act, and also to the State Board of Health. The State Board of Health, from time to time, as in its discretion it may determine, may publish such reports in its monthly bulletin.

## Walnut Shelling—Licensed Premises Mandatory

SEC. 9a. After the effective date of this act, it shall be unlawful for any person, firm or corporation to shell any walnuts intended for sale for human consumption or which are sold for human consumption, or to pack, clean, grade or otherwise prepare such walnuts after shelling, except upon premises which are licensed as hereinafter provided.

(1939 Amendment)

## Sanitation Requirements

SEC. 9b. Such licenses shall be issued by the California State Board of Public Health for periods of not to exceed one year and shall expire at the end of such period. No license shall be issued except upon application and until after inspection by the California State Board of Public Health of the premises to be licensed and only if such board finds such premises to comply with the standards prescribed in Sections 1, 2, 3, 4, 5 and 8 of this act. It shall be the duty of the California State Board of Public Health, upon application, to inspect such premises within ten days from the filing of such application. At any time after the issuance of such license the premises covered thereby may be re-inspected by said board and such license revoked if said board finds that such premises no longer comply with said standards.

(1939 Amendment)

## Sale of Shelled Walnuts

SEC. 9c. After thirty days after the effective date of this act it shall be unlawful for any person, firm or corporation to purchase, acquire or receive for sale or introduction into the channels of trade, in their original or any modified or manufactured form, any shelled walnuts, or products thereof, which were shelled, cleaned, graded, packed or otherwise prepared other than on licensed premises.

(1939 Amendment)

**Annual License Fee**

SEC. 9d. The annual fee for such license shall be \$25. All proceeds from such fees shall be deposited with the State Treasurer to the credit of the California State Board of Public Health fund, which fund is hereby created, and shall be used to the extent necessary for such inspection and for the enforcement of Sections 9a to 9f of this act.

(1939 Amendment)

**Producer-Grower Exempt From License Fee Only**

SEC. 9e. Sections 9a to 9d of this act shall not apply to the shelling, cleaning, grading or packing of walnuts, conducted by the producer thereof upon the land where such walnuts were produced

(1939 Amendment)

**Rules—Regulations State Board of Public Health**

SEC. 9f. The California State Board of Public Health shall have the power to issue and enforce all rules and regulations necessary to carry out the provisions of this act and to prescribe forms and accounting methods to be used by licensees with respect to operations subject to license. All licensees and all persons, firms and corporations subject to Section 9c hereof, are hereby required to keep accurate and sufficient records showing their respective shelling, cleaning, grading, packing, preparing, purchasing and receiving operations in shelled walnuts and the names and addresses of their employees and agents. Such records shall be kept in the form prescribed by the California State Board of Public Health. Failure to so keep such records shall be unlawful. Such records shall be subject to inspection at any time by said board.

(1939 Amendment)

**Violations Constitute Nuisances**

SEC. 10. All buildings, rooms, basements, cellars, and other places and things, kept, maintained or operated, or which are, in violation of the provisions of this act or any of them, and all food produced, prepared, manufactured, packed, stored, kept, sold, distributed or transported in violation of the provisions of this act or any of them, are hereby declared to be public nuisances, dangerous to health. Such nuisances may be abated or enjoined, in an action brought for that purpose by the local or State Board of Health, or they may be summarily abated in the manner provided by law for the summary abatement of public nuisances dangerous to health.

**Penalty**

SEC. 11. Any person, firm or corporation, whether as principal or agent, employer or employee, who violates any of the provisions of this act shall be guilty of a misdemeanor, and each day that conditions or actions, in violation of this act, shall continue, shall be deemed to be a separate and distinct offense, and for each offense, upon conviction, he shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, or shall be imprisoned in the county jail for a term not exceeding six months, or by both such fine and imprisonment.

## THE CALIFORNIA SANITARY BAKERY LAW AND THE STANDARD WEIGHT LAW FOR BREAD

### CHAPTER 701

*An act regulating the sanitary conditions of bakeries, prescribing conditions connected with the manufacture and sale of bakery products and fixing penalties for violation of the provisions thereof.*

(Approved June 3, 1921)

Section 7 amended by Chapter 176 of the laws of 1931.

(Approved April 21, 1931)

### CHAPTER 704

*An act establishing and standardizing the weight of loaves of bread and regulating the sale thereof.*

(Approved June 3, 1921)

### CHAPTER 701

*The people of the State of California do enact as follows:*

SECTION 1. Any building, or portion of any building, occupied or used as a bakery, wherein is carried on the business of the production, preparation, storage or display of bread, cakes, pies and other baking products intended for sale for human consumption, shall be clean, properly lighted, drained and ventilated. Every such bakery shall be provided with adequate plumbing and drainage facilities including suitable wash sinks, toilets and water closets. All toilets and water closets shall be separate and apart from the rooms in which the bakery products are produced or handled. All wash sinks, toilets and water closets shall be kept in a clean and sanitary condition and shall be in well lighted and ventilated rooms. The floors, walls and ceilings of the rooms in which the dough is mixed and handled or the pastry prepared for baking or stored, shall be kept and maintained in a clean, wholesome and sanitary condition. All openings into such rooms, including windows and doors shall be properly screened or otherwise protected to exclude flies. No working rooms shall be used for purposes other than those directly connected with the preparing, baking, storage and handling of food, and shall not be used as washing, sleeping, or living rooms. Rooms shall be provided for the changing and hanging of wearing apparel apart and separate from such work rooms, and such rooms, as so provided for the changing and hanging of wearing apparel, shall be kept clean at all times.

SEC. 2. The California State Board of Health shall make all necessary rules for carrying into effect the foregoing section and for the enforcement of the provisions thereof. If after inspection, such board shall find that any bakery is being operated in violation of the provisions hereof, notice in writing shall be given to the proprietor wherein shall be stated the particulars in which such bakery is not being properly conducted, and fixing a reasonable time, not less than thirty days, in which such conditions shall be remedied. If the requirements of such notice

shall not be complied with, said board shall order such bakery closed and it is hereby empowered to take all necessary steps to enforce such order; provided, that if any person, firm or corporation shall feel aggrieved by any order of said board, it shall have the right to appeal to the superior court of the county in which is located said bakery; provided, further, that on the taking of said appeal the owner or operator of said bakery shall furnish bond to the approval of the board; and, provided further, that said appeal shall be taken within a period of thirty (30) days from the order of said board.

SEC. 3. No employee or other person shall sit or lie upon any of the tables, benches, troughs, shelves, et cetera, which are intended for the dough or bakery products. No animals or fowls shall be kept or allowed in any bakery or other place where bread or other bakery products are produced or stored. Before beginning the work of preparing, mixing and handling the ingredients used in baking, every person engaged in the preparation or handling of bakery products shall wash the hands and arms thoroughly and rinse in clean water; and for this purpose sufficient wash basins and soap and clean towels shall be provided. Every person engaged in such work shall wash the hands and arms after using toilet rooms or water closets. Employees or other persons affected with any venereal disease, smallpox, diphtheria, scarlet fever, yellow fever, tuberculosis or consumption, bubonic plague, Asiatic cholera, leprosy, typhoid fever, epidemic dysentery, measles, mumps, whooping cough, chickenpox, or any other cutaneous or infectious disease, shall not work or be permitted to work in any such bakeries or be permitted to handle any of the products therein or delivered therefrom. Any person engaged in any of the work above mentioned, who knowingly is infected with any of the diseases specified in this section, or any employer, who knowingly employs such person shall be deemed guilty of violating the provisions of this act and shall be subject to the penalties provided for violation thereof. The State board of health shall make all necessary rules for carrying into effect the foregoing section.

SEC. 4. All water for mixing the dough or used in the mixing of any other bakery products shall be pure and wholesome. In case the water supply is taken from a well, the baker shall have a certificate of the purity of said water supply from the State board of health, or from any city or county health board within the State of California. Bakers shall not use the water from wells, the water of which is not so certified to be pure and wholesome.

SEC. 5. The wagons, boxes, baskets and other receptacles in which bread, cake, pies or other bakery products are transported, shall be kept in a clean and wholesome condition at all times and free from dust, flies and other contamination. All show cases, shelves, or other places where bakery products are sold, shall be kept well covered, properly ventilated, well protected from dust and flies, and shall be kept in a sweet, clean and wholesome condition at all times. Boxes or other receptacles for the storing or receiving of bread and other bakery products, before and after the retail stores and selling places are open, shall be so constructed and placed as to be free from the contamination of streets, alleys and sidewalks, and shall be raised at least four inches from the sidewalk or street and shall be kept clean and sanitary, and no bread shall be placed in any such box along with any other articles of food other than bakery products.

SEC. 6. All materials used in the production or preparation of bakery products shall be stored, handled and kept in a way to protect them from spoiling and contamination, and no material shall be used which is spoiled or contaminated, or which may render the bread or other bakery products unwholesome or unfit for food. The ingredients used in the production of bread and other bakery products and the sale or offering for sale of bread and bakery products shall comply with the provisions of the California laws against adulteration and misbranding. No ingredients shall be used which may render the bread or other bakery products injurious to health. No ingredients shall be used which may deceive the consumer or which lessens the nutritive value of the bakery product without being plainly labeled, branded or tagged or having a sign making such facts plain to the purchaser or consumer under rules to be prescribed by the State Board of Health; provided, however, that in case of bread to be sold by the loaf such labeling shall be, in the case of unwrapped bread, placed upon the same sticker as hereinafter provided to show the name of the manufacturer.

SEC. 7. All handling or sale of bread or other bakery products and all practices connected therewith shall be conducted at all times so as to prevent the distribution of contamination or disease among consumers, so as to prevent the distribution of the infection in bread, commonly known as "rope" or other bakery infections. No bakery products other than hearth-baked bread and rolls, except as hereinafter provided, shall be returned from any consumer or other purchaser to the dealer or baker nor from any dealer to the baker, and no baker or dealer shall directly or indirectly accept any returns or make any exchange of bakery products other than hearth-baked bread and rolls from any dealer, restaurant or hotel-keeper, consumer or any other person and all bread and all other bakery products shall be kept moving to the consumer in as direct a line as may be practicable and without unreasonable delay and without any exchange, return or practice whatsoever which may disseminate contamination, disease or fraud among consumers or infection among bakeshops. The State Board of Health shall make such reasonable rules as may be necessary for carrying into effect the foregoing provisions of this section; provided, that this section shall not be construed to apply to such bakery products where the product is so packed or sealed in a wrapper or container at the place of production as to fully protect the freshness and wholesomeness of the product and to protect it from contamination, adulteration, deterioration and fraud in the channels of trade and which remains in the original unbroken package in which such bakery product has been packed; provided, further, that the State Board of Health may by rules establish such exemptions as may be necessary to facilitate the sale of any accumulated or unsold stocks of wholesome bread or other bakery products, but any such exemptions or sales shall not be in violation of the expressed purposes of this section.

SEC. 8. Every loaf of bread made or procured for the purpose of sale sold or offered for sale except when sold directly from the manufacturer to the consumer, shall have affixed thereon in a conspicuous place a label indicating the manufacturer, or bearing the registered trade mark or trade label of such manufacturer. In case of wrapped

bread, such information shall be stated in a plain position upon the wrapper of each loaf, and in the case of unwrapped bread shall be stated upon a label no larger than one by one and one-half inches in size and not smaller than one inch by three-quarters of an inch, and such label affixed to an unwrapped loaf shall not be affixed in any manner or with any gums or pastes which are unsanitary or unwholesome.

SEC. 9. Any person, firm or corporation who shall violate any of the provisions of this act shall be subject to a fine of not less than ten dollars, nor more than one hundred dollars, and each day's continuance of any practice, act or condition prohibited herein shall constitute a separate offense within the meaning of this act.

SEC. 10. Except as in this act provided, no city or town or any board or officer thereof shall have power to enact or make any ordinance, law, resolution, rule or order, affecting the matters covered by this act.

SEC. 11. That if any clause, sentence, paragraph, or part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment has been rendered.

SEC. 12. All acts or parts of acts in conflict herewith are hereby repealed.

#### CHAPTER 704

*The people of the State of California do enact as follows:*

SECTION 1. All loaves of bread made or procured for the purpose of sale, sold, offered or exposed for sale in the State of California shall weigh, six hours after baking, not less than sixteen ounces avoirdupois, except as hereinafter provided, and such weight shall be the standard weight of a small loaf in the State of California. Bread may also be made or procured for sale, sold or offered or exposed for sale in twenty-four ounce loaves, which shall be known as a standard large loaf; also, in multiples of the standards fixed for the small and large loaves and no other. Commercial tolerances in excess are hereby fixed for small loaves of one ounce and for large loaves of two ounces, and there shall be no tolerance below or in deficiency of the fixed standard weight. Bread commonly known as "twin loaves" or multiple loaves may be made or procured for the purpose of sale, sold, offered or exposed for sale, providing each unit of such "twin" or multiple loaf conforms to the standard weights as herein fixed. The commercial tolerance fixed for small loaf shall apply to each unit of the "twin" or multiple loaf.

SEC. 2. Any person, firm or corporation who shall make or procure for the purpose of sale, sell, offer or expose for sale within the State of California any bread in loaves otherwise than herein provided for or in conflict with the standard weights of bread when baked as herein fixed, shall be guilty of a misdemeanor. All inspection of the weight of bread shall be made on the premises of the maker or manufacturer by averaging the weight of not less than twenty loaves of bread or any one unit and such average weight per loaf shall not be less than the minimum or more than the maximum weight herein fixed for such units.

SEC. 3. The provisions of this act shall not apply to crackers, pretzels, biscuits, buns, scones, rolls or loaves of fancy bread weighing less than one-fourth of a pound avoirdupois or to what is commonly known as "stale bread," sold as such, provided the seller shall, at the time of sale, expressly state to the buyer that the bread so sold is stale bread.

SEC. 4. The enforcement of the provisions of this act shall be under the supervision of the State Superintendent of Weights and Measures.

SEC. 5. All acts or parts of acts in conflict herewith are hereby repealed.

## VI

### LABOR CODE

#### FOUNDRIES AND METAL SHOPS

2330. *Wash Bowls, Sinks, Etc., Requirement as to Maintenance.* The owner or manager of every foundry or metal shop engaged in the casting, fabricating, or working over in any manner of any metal or compound, where five or more men are employed, shall maintain for the use of the employees wash bowls, sinks or other appliances and a water closet connected with running water. (Enacted 1937)

2331. *Ventilation of Rooms Containing Wash Bowls and Water Closet.* The room in which the wash bowls and the water closet are installed shall be kept properly ventilated and protected, so far as reasonably practicable, from the dust and fumes of the foundry or metal shop. (Enacted 1937)

2332. *Violation of Article a Misdemeanor.* Violation of any provision of this article is a misdemeanor, punishable by a fine of not more than one hundred dollars for each offense. (Enacted 1937)

2333. *Health Officers to Report Violations of Article.* County and city health officers shall report violations of this article to the district attorney of the county in which the violation is committed, and the district attorney shall prosecute all violations of this article. (Enacted 1937)

#### Article 3. Factories and Business Establishments

2350. *Factory, Workshop, Etc., to Be Kept Free from Effluvia: Water Closets or Privies for Employees.* Every factory, workshop, mercantile or other establishment, in which five or more persons are employed, shall be kept clean and free from the effluvia arising from any drain, privy, or other nuisance, and shall be provided, within reasonable access, with a sufficient number of water closets or privies for the use of the employees. Whenever the employees are of different sexes, a sufficient number of separate water closets or privies shall be provided for the use of each sex, which shall be plainly so designated. No person shall be allowed to use any water closet or privy assigned to persons of the other sex. (Enacted 1937)

2351. *Ventilation.* Every factory or workshop in which five or more persons are employed shall be so ventilated while work is carried on that the air will not become injurious to the health of the employees, and shall also be so ventilated as to render harmless, as far as practicable, all injurious gases, vapors, dust, or other impurities generated in the course of the manufacturing process or handcraft carried on therein. (Enacted 1937)

2352. *Place Condemned by Labor Commissioner.* No basement, cellar, underground apartment, or other place which the Labor Commissioner condemns as unhealthy and unsuitable, shall be used as a place of employment. (Enacted 1937)

2353. *Exhaust Fans and Blowers, Requirements as to.* In any factory, workshop, or other establishment where dust, filaments, or injurious gases are produced or generated, which may be inhaled by employees, the person, under whose authority the work is carried on, shall cause to be provided and used, exhaust fans or blowers with pipes and hoods extending therefrom to each machine, contrivance or apparatus by which dust, filaments or injurious gases are produced or generated. The fans and blowers, and the pipes and hoods, shall be properly fitted and adjusted, and of power and dimensions sufficient to prevent the dust, filaments, or injurious gases from escaping into the atmosphere of any room where employees are at work. (Enacted 1937)

2354. *Violation of Article a Misdemeanor.* Any person violating this article is guilty of a misdemeanor, punishable by a fine of not less than \$50 nor more than \$300, or by imprisonment in the county jail for not less than 30 days nor more than 90 days, or both. (Enacted 1937)

2355. *Enforcement of Article.* The Labor Commissioner shall enforce this article. (Enacted 1937)

## CAMPS

2410. *Definitions.* As used in this article:

- (a) "Sleeping place" includes a bunk house, tent, and sleeping place in any camp.
- (b) "Camp" means any camp where five or more persons are employed.
- (c) "Bed" includes bunk and bed. (Enacted 1937)

2411. *Sleeping Places: To Be Provided.* In any camp suitable sleeping places shall be provided for all employees. (Enacted 1937)

2412. *Same: Construction: Condition to Be Kept in: Surrounding Grounds.* Sleeping places shall be in good structural condition and constructed so as to provide shelter to the occupants against the elements and to exclude dampness. Sleeping places shall be kept clean and free from vermin and matter of an infectious or contagious nature. The grounds around sleeping places shall be kept clean and free from accumulations of dirt, filth, garbage, and deleterious matter. (Enacted 1937)

2413. *Same: Air Space.* Every sleeping place shall contain sufficient air space to insure an adequate supply of fresh air for each occupant thereof. (Enacted 1937)

2414. *Beds to Be Provided: Material and Construction.* Suitable beds shall be provided for all employees. Such beds shall be made of steel, canvas, or other sanitary material, and shall be so constructed as to afford reasonable comfort to the occupants. (Enacted 1937)

2415. *Same: Space Between.* A clear space of at least 20 inches extending from the floor to the ceiling or roof of any sleeping place shall be allowed between each bed therein. (Enacted 1937)

2416. *Same: Mattress.* An employee, upon his request, shall be supplied with mattress or some equally comfortable bedding for which a reasonable charge, deductible from his wages, may be made. When straw or other substitute for a mattress is used a container or tick shall be provided. (Enacted 1937)

2417. *Cook Tent or Structure: Utensils and Implements Used in Eating.* Every tent, or structure where food is cooked, prepared or served in a camp shall be kept in a clean and sanitary condition and the openings thereof shall be screened. All utensils, in which food is prepared or kept, or from which food is to be eaten, and all implements used in the eating of food shall be kept in a clean, unbroken, and sanitary condition. (Enacted 1937)

2418. *Bathing Facilities.* Convenient and suitable bathing facilities of a reasonable nature to suit conditions, kept clean and sanitary, shall be provided for every camp. (Enacted 1937)

2419. *Privy or Toilet Facilities.* Convenient and suitable privy or other toilet facilities, kept clean and sanitary shall be provided for every camp. A privy other than a water closet shall consist of a pit at least two feet deep, with a suitable shelter. The openings of the shelter and pit shall be inclosed by screening or other suitable fly netting. No privy pit shall be filled with excreta to nearer than one foot from the surface of the ground and the excreta in the pit shall be covered with earth, ashes, lime, or other similar substance. (Enacted 1937)

2420. *Garbage, Kitchen Wastes and Rubbish: Drainage from Kitchen Sink.* All garbage, kitchen wastes, and rubbish in camps shall be deposited in suitable covered receptacles which shall be emptied daily or oftener if necessary, and the contents burned, buried, or otherwise disposed of in a manner which is not or does not become offensive or insanitary. All drainage from the kitchen sink shall be carried through a covered drain to a covered cesspool or septic tank or otherwise disposed of in such a way as not to become offensive or insanitary. (Enacted 1937)

2421. *Who to Carry Out Provisions of Article: Assistant in Keeping Camp Clean.* Every person, or the agent or office thereof, employing persons to work in or at camps to which this article applies and the superintendent or overseer in charge of the work in or at such camps shall carry out the provisions of this article. At every camp a responsible person shall be appointed to assist in keeping the camp clean. (Enacted 1937)

2422. *Enforcement of Article by Commission of Immigration and Housing.* The Commission of Immigration and Housing shall administer and enforce this article and for such purpose the officers and agents thereof may:

(a) Enter public or private property to determine whether there exists any camp to which this article applies.

(b) Enter and inspect all camps wheresoever situated, and inspect all accommodations, equipment, or paraphernalia connected therewith.

(c) Enter and inspect the land adjacent to the camp to determine whether the sanitary and other requirements of this article have been or are being complied with. (Enacted 1937.)

2423. *Abatement of camp.* Any camp which does not conform to this article is a public nuisance and if not made to conform within five days or within such longer period of time allowed by the Commission of Immigration and Housing after written notice given by the commission shall be abated by proper action brought in the superior court of the county in which the camp, or the greater portion thereof, is situated. (Enacted 1937.)

2424. *Officers and agents of Commission of Immigration and Housing have authority of peace officers.* For the purpose of securing the enforcement of this article the officers and agents of the Commission of Immigration and Housing shall have the authority of peace officers to make arrests, to serve any process or notice throughout the State and such other authority of peace officers as may become necessary in securing the enforcement of this article. (Enacted 1937.)

2425. *Violation of article a misdemeanor.* Any person, or the agent or officer thereof, who violates any provision of this article is guilty of a misdemeanor, punishable by a fine of not more than two hundred dollars, or imprisonment for not more than sixty days or both. (Enacted 1937.)

### CHAPTER 3

2604. *New factory, Labor Commissioner to notify State Board of Health.* Whenever the Labor Commissioner learns of a new factory, he shall on or before the tenth day of the following month notify the State Board of Health, and the board of health or health officer of the city and of the county wherein the factory is located. (Enacted 1937.)

#### Safety Devices and Safeguards

6400. *Duty of employer as to employment and place.* Every employer shall furnish employment and a place of employment which are safe for the employees therein. (Enacted 1937.)

6401. *Duty of employer to furnish and use.* Every employer shall furnish and use safety devices and safeguards, and shall adopt and use practices, means, methods, operations, and processes, which are reasonably adequate to render such employment and place of employment safe. Every employer shall do every other thing reasonably necessary to protect the life and safety of employees. (Enacted 1937.)

6402. *Prohibition against unsafe employment or place.* No employer shall require, or permit any employee to go or be in any employment or place of employment which is not safe. (Enacted 1937.)

6403. *Duty to provide and use: Adoption and use of methods, etc.; things reasonably necessary.* No employer shall fail or neglect:

(a) To provide and use safety devices and safeguards.

(b) To adopt and use methods and processes reasonably adequate to render the employment and place of employment safe.

(c) To do every other thing reasonably necessary to protect the life and safety of employees. (Enacted 1937.)

6404. *Occupance or maintenance of unsafe place.* No employer shall occupy or maintain any place of employment that is not safe. (Enacted 1937.)

6405. *Construction of unsafe place prohibited.* No employer, owner, or lessee of any real property shall construct or cause to be constructed any place of employment that is not safe. (Enacted 1937.)

6406. *Prohibition against removal, etc., of safety devices, etc.* No person shall do any of the following:

(a) Remove, displace, damage, destroy or carry off any safety device, safeguard, notice, or warning, furnished for use in any employment or place of employment.

(b) Interfere in any way with the use thereof by any other person.

(c) Interfere with the use of any method or process adopted for the protection of any employee, including himself, in such employment, or place of employment.

(d) Fail or neglect to do every other thing reasonably necessary to protect the life and safety of employees. (Enacted 1937.)

6407. *Report; of injuries.* Every employer, insurer and physician or surgeon who attends any injured employee shall file with the commission, under rules and regulations prescribed by the commission, a complete report of every injury to each employee arising out of or in the course of his employment unless disability resulting from such injury does not last through the day or does not require medical service other than ordinary first aid treatment. (Enacted 1937.)

6312. *Power jurisdiction, and supervision of commission over employments and places of employment.* The commission has the power, jurisdiction, and supervision over every employment and place of employment in this State, which is necessary adequately to enforce and administer all laws and lawful orders requiring such employment and place of employment to be safe, and requiring the protection of the life and safety of every employee in such employment or place of employment. (Enacted 1937.)

6313. *Investigation of cause of all industrial injuries: Orders or recommendations of commission with respect to injuries.* The commission may investigate the cause of all industrial injuries resulting in disability or death which occur within the State in any employment or place of employment, or which directly or indirectly arise from or are connected with the maintenance or operation of such employment or place of employment.

The commission may make orders or recommendations with respect to the cause of such injuries which are just and reasonable; but neither the order nor the recommendation of the commission shall be admitted as evidence in any action for damages or any proceeding to recover compensation, based on or arising out of such injury or death. (Enacted 1937.)

## VII

### **VENEREAL DISEASE CONTROL**

*An act relating to the care and control of venereal diseases, granting other and further powers in relation thereto to the State Board of Public Health and its subordinate agencies, authorizing the acceptance of Federal social security funds and making an appropriation therefor.*

[Approved by the Governor July 1, 1937. In effect August 27, 1937.]

*The people of the State of California do enact as follows:*

#### **Bureau of Venereal Diseases**

SECTION 1. The State Board of Public Health shall establish and maintain in the Department of Public Health a Bureau of Venereal Diseases whose function it shall be to cooperate for the prevention, control, and cure of venereal diseases with physicians and surgeons, medical schools, public and private hospitals, dispensaries, clinics, public and private school, college, normal school, university authorities; penal and charitable institutions; reform and industrial schools; detention homes; Federal, State, local and district health officers and boards of health, and all other health authorities; institutions caring for the insane; and with any other persons, institutions, or agencies.

#### **Chief of Bureau. Assistants**

The State Board of Public Health shall appoint a full time chief of the bureau who shall devote his entire time to the duties of the office. No person shall be eligible for the position of chief of the bureau unless he or she shall hold a physician's and surgeon's certificate issued in this State and shall have been specially trained or experienced in public health work, and in the prevention and control, of venereal diseases. The chief shall perform and discharge all of the powers, duties, purposes and functions which are herein or which may hereafter by law be vested in him. The State Board of Public Health shall appoint from civil service lists such assistants, deputies, clerical, and other help as it deems reasonably necessary in carrying out the provisions and purposes of this act and shall prescribe their duties.

#### **Receipt and Use of Funds. County Aid**

The State Board of Public Health shall have the power to receive any financial aid made available to it by any private, State, Federal, or other grant or source, and shall use such funds to carry out the provisions and purposes of this act, and if Federal funds are made available to the State Board of Public Health to aid it in carrying out the said provisions and purposes, the said board, in counties where there is no county health department capable of carrying out the provisions and purposes of this

act, may, in its discretion, use a portion of the funds hereby appropriated to aid in establishing, in such counties, part or full time health departments; provided adequate facilities for the approved diagnosis, examination, and control of venereal diseases are furnished in such county health departments.

### **Rules and Regulations**

SEC. 2. In addition to the powers and duties herein and elsewhere mentioned, the State Board of Public Health shall have the power to and shall make and promulgate such rules and regulations as are reasonably necessary to effectuate the prevention and control of venereal diseases in this State, and such rules and regulations as are reasonably necessary to control and effectuate the proper reporting, quarantine, examination of and proper control measures for, such diseases. The bureau shall conduct such educational and publicity work as it may deem necessary and, from time to time, shall cause to be issued, free of charge, copies of such rules and regulations, pamphlets, and other literature as it deems reasonably necessary.

### **"Venereal Diseases" Defined**

SEC. 3. The expression, "venereal diseases," means syphilis, gonorrhea, chancreoid, lymphogranuloma inguinale, and granuloma inguinale.

### **Enforcement of Rules and Regulations**

SEC. 4. The State Board of Public Health shall have power to commence and maintain all proper and necessary actions and proceedings to enforce its regulations for carrying out the provisions of this act.

### **Enforcement of Rules and Regulations**

SEC. 5. The State Department of Public Health shall enforce such necessary rules and regulations as are promulgated by the State Board of Public Health, particularly relating to the quarantine of persons suspected of having, or having, venereal disease.

### **Examination of Specimens**

SEC. 6. The State Department of Public Health may require any physician in attendance on a person infected with, or suspected of being infected with, a venereal disease infection to submit such specimens as may be designated for examination, when in its opinion such procedure is reasonably necessary to carry out the provisions and purposes of this act. Such examination may be made in the State laboratory or in a clinical laboratory which shall be under the immediate supervision and direction of a clinical laboratory technologist or a licensed physician and surgeon or in any other laboratory in this State which for a period of more than five years prior to the enactment of this act shall have been actively engaged in the examination of specimens of a similar character for physicians and surgeons in this State; provided, however, that nothing in this act shall be construed as limiting any person's freedom to have additional examinations made elsewhere.

**Clinics, Dispensaries, Etc.**

SEC. 7. The State Department of Public Health may establish, maintain and subsidize clinics, dispensaries and prophylactic stations for the diagnosis, treatment of and prevention of venereal diseases and may, in its proper discretion, provide medical, advisory, financial or any other assistance to such clinics, dispensaries and stations as may be approved by said State Department of Public Health; provided, however, that no such clinics, dispensaries or prophylactic stations shall be approved unless they meet the requirements of the State Board of Public Health and comply with the rules and regulations of said Board of Public Health.

**Treatment in Rural Localities**

The State Department of Public Health may furnish treatment for a case or for a group of cases in rural counties or cities upon the recommendation of the local health officer; provided that adequate facilities for such treatment are not available in said county or city.

**Investigation of Conditions**

The Bureau of Venereal Diseases shall have the power subject to the direction and supervision of the Director of the State Department of Public Health, to investigate conditions affecting the prevention, control and approved procedure of venereal diseases, and shall disseminate educational information relative thereto.

**Failure to Report Venereal Disease Case**

SEC. 8. Every physician, dispensary, practitioner, or clinic who fails to report a case of venereal disease as required by law shall be guilty of a misdemeanor.

**Reports by Local Health Officers**

SEC. 9. It is hereby made the duty of every local health officer and deputy to report to the State Department of Public Health such information in relation to the subject of venereal diseases as may be required.

**Duties and Powers of State Health Officers**

SEC. 10. It shall be the duty of the health officers of this State to use every available means to ascertain the existence of cases of infectious venereal diseases within their respective jurisdictions, to investigate all cases that are not, or probably are not, subject to proper control measures approved by the State Board of Public Health and to ascertain so far as possible all sources of infection and to take all measures reasonably necessary to prevent the transmission of infection. Said health officers, in the enforcement of this act, are hereby vested with the power of inspection and quarantine of any place or person when such procedure is necessary to enforce the rules and regulations of the State Board of Public Health or the State Department of Public Health.

### Enforcement by Local Health Officers

It shall be the duty of each local health officer to enforce the provisions of this act pertaining to the control, prevention, and control of venereal diseases and such rules and regulations as may be lawfully promulgated by the State Board of Public Health.

### Admission Into Public Hospitals

It shall be incumbent upon any State agency conducting a public hospital to admit acute venereal disease cases, when, in the opinion of the State Department of Public Health or the local health officer having jurisdiction, such persons infected with venereal disease may be a menace to public health.

### Duties of Diseased Persons

SEC. 11. In addition to the duties herein elsewhere imposed, it shall be the duty of any diseased person to comply with all rules and regulations made and promulgated by the State Board of Public Health, and all the provisions of this act, and to give all the information required by this act, including the name and address of any person from whom such disease has been contracted, and from time to time to submit to approved examinations to determine the condition of such disease. It shall also be the duty of any diseased person to conduct himself, or herself, in a manner which will not be likely to expose any other person to infection or to spread such disease, and to submit to proper control measures until the venereal disease with which he or she is infected is no longer in an infectious state and no longer likely again to become infectious. Whenever it appears to the State Board of Public Health to be reasonably necessary for the purpose of protecting the health of any person or carrying out the provisions and purposes of this act, it shall make and promulgate rules and regulations designating the callings which persons having a venereal disease in an infectious state shall not enter or continue in.

### Failure to Comply With Control Procedure

If any person subject to proper control measures concerning venereal disease shall discontinue such procedure when such procedure is required by this act, the person, or other agency administering such procedure prior to such discontinuance shall make reasonable efforts to determine whether such person is continuing to comply with such procedure elsewhere and if it shall appear reasonably likely that such person is not complying with such procedure elsewhere, the person, or other agency who was administering such procedure for such person prior to such discontinuance, shall make all reasonable efforts to induce such person to comply and, if it thereafter appears reasonably likely that such person has failed to comply, shall report, on forms furnished by the State Department of Public Health, the name and address of such person to the local health officer or board of health, or to the State Department of Public Health where there is no such local health officer.

## Appropriation

SEC. 12. The sum of \$150,000 is hereby appropriated out of any money in the State treasury not otherwise appropriated, to be expended solely in carrying out the provisions and purposes of this act during the 89th and 90th fiscal years. All claims against this appropriation shall be submitted for approval and audit to the State Department of Public Health, and shall be paid in accordance with law.

## Penalty. Testimony

SEC. 13. Any person violating any rule or regulation of the State Board of Public Health made pursuant to this act, or any provision of this act, or refusing to give any of the information or to make any report, or to comply with proper control measures or examination required by this act, or refusing to perform any duty or act required by this act, or exposing to or infecting any person with any venereal disease; or any person infected with a venereal disease in an infectious state who knows of such condition and who marries or has sexual intercourse, is guilty of a misdemeanor punishable by a fine not exceeding \$500, or imprisonment in the county jail for a term not exceeding six months or both such fine and imprisonment. In any prosecution for a violation of any provision of this act or any rule or regulation of the State Board of Public Health made pursuant to this act, or in any quarantine proceeding authorized by this act, or in any habeas corpus or other proceeding in which the legality of such quarantine is questioned, any physician, health officer, spouse, or other person shall be competent and may be required to testify against any person against whom such prosecution, or other proceeding is instituted, or any person by whom such habeas corpus or other proceeding is instituted, and the provisions of subsections 1 and 4 of Section 1881 of the Code of Civil Procedure shall not be applicable to such prosecution, or proceeding.

## Application of Act

SEC. 14. The provisions of this act shall apply in all instances whether the person infected with a venereal disease became infected or commenced treatment before or after the passage of this act; provided, however, that no act performed before the effective date of this act shall be subject to any criminal prosecution under this act.

## Exemption

SEC. 14.5. Nothing in this act shall be construed to interfere with the freedom of any adherent of the teachings of any well-recognized religious sect, denomination, or organization to depend exclusively upon prayer for healing in accordance with the teachings of such religious sect, denomination or organization. Any person utilizing the right acknowledged in the preceding sentence shall, together with any person or persons treating him, be exempt from all provisions of this act regarding venereal diseases, except that the laws of the State of California and rules and regulations of the State Board of Public Health regarding compulsory reporting of communicable diseases and the quarantine of

such diseases and any provisions in this act regarding callings in which he may not be permitted to engage shall apply.

### **Duty to Prosecute**

SEC. 15. It shall be the duty of the district attorney of the county or the city and county in which the violation may occur to prosecute every person, firm, company, organization or corporation accused of violation of this act.

### **Constitutionality**

SEC. 16. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

## **PREMARITAL EXAMINATIONS**

**(Civil Code)**

79.01. Before any person, who is or may hereafter be authorized by law to issue marriage licenses, shall issue any such license, each applicant therefor shall file with him a certificate from a duly licensed physician which certificate shall state that the applicant has been given such examination, including a standard serological test, as may be necessary for the discovery of syphilis, made not more than thirty days prior to the date of issuance of such license, and that, in the opinion of such physician, the person either is not infected with syphilis, or if so infected, is not in a stage of that disease which is or may become communicable to the marital partner.

Any person who by law is validly able to obtain a marriage license in the State of California is validly able to give consent to any examinations and tests required by this article. In submitting the blood specimen to the laboratory the physician shall designate that this is a premarital test.

79.02. The certificate shall be accompanied by a statement from the person in charge of the laboratory making the test, or from some other person authorized to make such reports, setting forth the name of the test, the date it was made, the name and address of the physician to whom the test was sent and the name and address of the person whose blood was tested.

79.03. Except as hereinafter provided, the certificate of a physician and the statement from a person in charge of a laboratory or from a person authorized to make reports for the laboratory shall be on a form to be provided and distributed by the California State Department of Public Health to laboratories in the State approved by the California State Department of Public Health. This form is hereinafter referred to in this article as "the certificate form."

79.03a. Certificate forms provided by other States having comparable laws will be accepted for persons who have been examined and who have received serological tests for syphilis outside of California; provided, such examinations and tests are performed not more than 30 days prior to the issuance of a marriage license. Certificates provided by the United States Army or Navy will be accepted for military personnel; provided, such certificates are signed by a medical officer commissioned in the United States Army or Navy; and provided, the certificates state the examinations and serological tests for syphilis were performed not more than 30 days prior to the issuance of the marriage license.

79.04. For the purpose of this article a standard serological test shall be a test for syphilis approved by the California State Department of Public Health and an approved laboratory shall be the laboratory of the California State Department of Public Health or a laboratory approved by the California State Department of Public Health or any other laboratory the director of which is licensed by said State Department of Public Health according to law. In case of question concerning accuracy of tests prescribed in this article, it shall be mandatory upon the State Department of Public Health to accept specimens for checking purposes from any district in the State.

79.05. The California State Department of Public Health shall issue a "Laboratory Report Form" to be distributed upon application to all laboratories approved to do tests called for in this article. Any laboratory doing tests called for in this article shall prepare the report in triplicate. The original of this report shall be transmitted by the laboratory doing such test together with the certificate form to the certifying physician. The duplicate reports shall be forwarded at weekly intervals to the California State Department of Public Health. The triplicate shall be retained by the laboratory on file for five years and shall be open during that time for inspection by any authorized representative of the California State Department of Public Health.

79.06. The judge of the superior court in the county in which the license is to be issued is hereby authorized and empowered, on joint application by both parties to a marriage, to waive the requirements as to medical examinations, laboratory tests, and certificates and to order the licensing authority to issue the license applied for, if all other requirements of the marriage laws have been complied with, and if the judge is satisfied by affidavit or other proof that an emergency or other sufficient cause for such action exists and that the public health and welfare will not be injuriously affected thereby.

In any case where such examinations and tests have been made and certificate or certificates have been refused because one or both of the applicants have been found to be infected with syphilis, the judge shall nevertheless be authorized and empowered, on application of both parties to such marriage to order the licensing authority to issue the license, if all other requirements of the marriage laws have been complied with and if the judge is satisfied by affidavit or other proof that an emergency or other sufficient cause for such order exists and that the public health and welfare will not be injuriously affected thereby. In every such case, however, the clerk of the court shall transmit to the California State

Department of Public Health a transcript of the record and the order thereon for such follow-up by said department as is required by law or deemed necessary by said department for the protection of the public health. The order of the court shall be filed by the licensing authority in lieu of the certificate form.

The court when it is deemed necessary may, to the extent authorized by law or rules of court, order all proceedings instituted under the provisions of this article to be confidential and private. There shall be no fee for these court proceedings.

79.07. The certificate forms and the court orders shall be filed in the office of the county clerk. They shall be preserved for one year from the date of filing after which date they may be destroyed.

79.08. Any applicant for a marriage license, physician, or representative of a laboratory who shall misrepresent his identity or any of the facts called for by the certificate form prescribed by this article; or any licensing officer who shall issue a marriage license without having received the certificate form or an order from the court, or who shall have reason to believe that any of the facts on the certificate form have been misrepresented, and shall nevertheless issue a marriage license; or any person who shall otherwise fail to comply with the provisions of this article shall be guilty of a misdemeanor.

79.09. Certificates, laboratory statements or reports, applications and court orders, in this article referred to and the information therein contained, shall be confidential and shall not be divulged to or open to inspection by any person other than State or local health officers or their duly authorized representatives.

Any person who shall divulge such information or open to inspection such certificates, statements, reports, applications or court orders, without authority, to any person not by law entitled to the same shall be guilty of a misdemeanor.

## PRENATAL EXAMINATIONS

(Chapter 127, Acts of 1939)

SECTION 1. Every licensed physician and surgeon or other person engaged in prenatal care of a pregnant woman or attending such woman at the time of delivery shall obtain or cause to be obtained a blood specimen of that pregnant or recently delivered woman, at the time of the first professional visit or within ten days thereafter. The blood specimen thus obtained shall be submitted to an approved laboratory for a standard laboratory test for syphilis. For the purposes of this act, an approved laboratory shall be a laboratory approved by the California State Department of Public Health, or any other laboratory the director of which is licensed by said State Department of Public Health according to law. In submitting such specimen to the laboratory the physician shall designate that this is a prenatal test or a test following recent delivery.

SEC. 2. For the purpose of this act a standard laboratory blood test shall be a test for syphilis approved by the California State Department

of Public Health. In case of question concerning accuracy of tests prescribed in this act, it shall be mandatory upon the State Department of Public Health to accept specimens for checking purposes from any district in the State.

SEC. 3. The California State Department of Public Health shall issue a "Prenatal Test Laboratory Report Form" to be distributed upon application to all laboratories approved to do tests called for in this act. Any laboratory doing tests called for in this act shall prepare the report in triplicate. The original of this report shall be transmitted by the laboratory doing such test to the physician submitting the specimen. The duplicate reports shall be forwarded at weekly intervals to the California State Department of Public Health. The triplicate shall be retained by the laboratory for file and shall be open at any time for inspection by an authorized representative of the California State Department of Public Health.

SEC. 4. All laboratory reports shall be confidential and shall not be open to public inspection.

SEC. 5. Any licensed physician and surgeon, or other person engaged in attendance upon a pregnant woman or a recently delivered woman, or any representative of a laboratory who violates the provisions of this act shall be guilty of a misdemeanor; provided, however, every licensed physician and surgeon or other person engaged in attendance upon a pregnant or recently delivered woman, who requests such specimen in accordance with the provisions of Section 1, and whose request is refused, shall not be guilty of a misdemeanor.

SEC. 6. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions thereof. The Legislature hereby declares that it would have passed this act, and each and every section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

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